

001577

RECOMMENDATIONS

COMMUNITY PLANNING GROUP/STAFF'S/PLANNING COMMISSION

Project Manager **must** complete the following information for the Council docket:

CASE NO. 86511 – PESCADERO HOUSE

STAFF'S RECOMMENDATIONS:

Please indicate recommendation for each action. ie: resolution / ordinance

1. **DENY** the appeal and **CERTIFY** Mitigated Negative Declaration No. 86511, and **ADOPT** the Mitigation, Monitoring and Reporting Program; and
2. **APPROVE** Coastal Development Permit No. 274486; and
3. **APPROVE** Site Development Permit No. 277639; and
4. **APPROVE** Planned Development Permit No. 524160.

PLANNING COMMISSION (list names of Commissioners voting yea or nay)

YEAS: 5: Griswold, Naslund, Ontal, Smiley, Otsuji

NAYS: 1:Schultz

ABSTAINING: 1: One Seat Vacant

TO: Certify the Mitigated Negative Declaration and Approve the project as conditioned.

COMMUNITY PLANNING GROUP (choose one)

LIST NAME OF GROUP: Ocean Beach Planning Board

- ☐ No officially recognized community planning group for this area.
- ☐ Community Planning Group has been notified of this project and has not submitted a recommendation.
- ☐ Community Planning Group has been notified of this project and has not taken a position.
- ☒ Community Planning Group has recommended approval of this project.
- ☐ Community Planning Group has recommended denial of this project.
- ☐ This is a matter of City-wide effect. The following community group(s) have taken a position on the item:

In favor: 9

Opposed: 0

By


Patrick Hooper, Project Manager



Land Development
Review Division
(619) 446-5460

Mitigated Negative Declaration

Project No. 86511

SUBJECT: Pescadero House: PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP) and a COASTAL DEVELOPMENT PERMIT CDP) to allow the demolition of two single-family homes and the construction of a two-unit, split-level multi-family development with underground parking. The site is located at 1466 Pescadero Drive within the Ocean Beach Planning Area, Sensitive Coastal Overlay Zone, Ocean Beach Emerging Historic District, Parking Impact Overlay Zone and Council District 2. Legal Description: Lot 7 and 8 in Block 44-Map of Ocean Beach being a subdivision of Pueblo Lots 195, 202 and 203 and that portion of Ocean Boulevard closed and vacated by resolution ordering work no. 103046, document 435927 on July 17, 1951.

- I. PROJECT DESCRIPTION: See attached Initial Study.
- II. ENVIRONMENTAL SETTING: See attached Initial Study.
- III. DETERMINATION:

The City of San Diego conducted an Initial Study which determined that the proposed project could have a significant environmental effect in the following areas(s): **Historical Resources (Archaeology) and Paleontology**. Subsequent revisions in the project proposal create the specific mitigation identified in Section V of this Mitigated Negative Declaration. The project as revised now avoids or mitigates the potentially significant environmental effects previously identified, and the preparation of an Environmental Impact Report will not be required.

IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

To ensure that site development would avoid significant environmental impacts, a Mitigation, Monitoring, and Reporting Program (MMRP) is required. Compliance with the mitigation measures shall be the responsibility of the applicant. The mitigation measures are described below.

Prior to the issuance of a Notice to Proceed (NTP) or any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits the Assistant Deputy Director (ADD) environmental designee of the City's Land Development Review Division (LDR) shall verify that the following statement is shown on the grading and/or

construction plans as a note under the heading Environmental Requirements, "Pescadero House, Monitoring and Reporting Program and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration No. 86511".

HISTORICAL RESOURCES (ARCHAEOLOGY)

I. Prior to Permit Issuance

A. Land Development Review (LDR) Plan Check

1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Archaeological Monitoring and Native American monitoring have been noted on the appropriate construction documents.

B. Letters of Qualification have been submitted to ADD

1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the archaeological monitoring program, as defined in the City of San Diego Historical Resources Guidelines (HRG). If applicable, individuals involved in the archaeological monitoring program must have completed the 40-hour HAZWOPER training with certification documentation.
2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the archaeological monitoring of the project.
3. Prior to the start of work, the applicant must obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

A. Verification of Records Search

1. The PI shall provide verification to MMC that a site specific records search (1/4 mile radius) has been completed. Verification includes, but is not limited to a copy of a confirmation letter from South Coast Information Center, or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
3. The PI may submit a detailed letter to MMC requesting a reduction to the ¼ mile radius.

B. PI Shall Attend Precon Meetings

1. Prior to beginning any work that requires monitoring; the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified Archaeologist and Native American Monitor shall attend any grading/excavation related Precon Meetings to make comments and/or suggestions concerning the Archaeological Monitoring program with the Construction Manager and/or Grading Contractor.
 - a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. **Identify Areas to be Monitored**

Prior to the start of any work that requires monitoring, the PI shall submit an Archaeological Monitoring Exhibit (AME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits.

The AME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. **When Monitoring Will Occur**
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant

information such as review of final construction documents which indicate site conditions such as depth of excavation and/or site graded to bedrock, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

A. Monitor(s) Shall be Present During Grading/Excavation/Trenching

1. The Archaeological Monitor shall be present full-time during grading/excavation/trenching activities which could result in impacts to archaeological resources as identified on the AME. The Native American monitor shall determine the extent of their presence during construction related activities based on the AME and provide that information to the PI and MMC. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as modern disturbance post-dating the previous grading/trenching activities, presence of fossil formations, or when native soils are encountered may reduce or increase the potential for resources to be present.

B. Discovery Notification Process

1. In the event of a discovery, the Archaeological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.

C. Determination of Significance

1. The PI and Native American monitor shall evaluate the significance of the resource. If Human Remains are involved, follow protocol in Section IV below.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required.
 - b. If the resource is significant, the PI shall submit an Archaeological Data Recovery Program (ADRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant, the PI shall submit a letter to MMC indicating that artifacts will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that that no further work is required.

IV. Discovery of Human Remains

If human remains are discovered, work shall halt in that area and the following procedures as set forth in the California Public Resources Code (Sec. 5097.98) and State Health and Safety Code (Sec. 7050.5) shall be undertaken:

A. Notification

1. Archaeological Monitor shall notify the RE or BI as appropriate, MMC, and the PI, if the Monitor is not qualified as a PI. MMC will notify the appropriate Senior Planner in the Environmental Analysis Section (EAS).
2. The PI shall notify the Medical Examiner after consultation with the RE, either in person or via telephone.

B. Isolate discovery site

1. Work shall be directed away from the location of the discovery and any nearby area reasonably suspected to overlay adjacent human remains until a determination can be made by the Medical Examiner in consultation with the PI concerning the provenience of the remains.
2. The Medical Examiner, in consultation with the PI, will determine the need for a field examination to determine the provenience.
3. If a field examination is not warranted, the Medical Examiner will determine with input from the PI, if the remains are or are most likely to be of Native American origin.

C. If Human Remains **ARE** determined to be Native American

1. The Medical Examiner will notify the Native American Heritage Commission (NAHC) within 24 hours. By law, **ONLY** the Medical Examiner can make this call.
2. NAHC will immediately identify the person or persons determined to be the Most Likely Descendent (MLD) and provide contact information.
3. The MLD will contact the PI within 24 hours or sooner after the Medical Examiner has completed coordination, to begin the consultation process in accordance with the California Public Resource and Health & Safety Codes.
4. The MLD will have 48 hours to make recommendations to the property owner or representative, for the treatment or disposition with proper dignity, of the human remains and associated grave goods.
5. Disposition of Native American Human Remains shall be determined between the MLD and the PI, IF:
 - a. The NAHC is unable to identify the MLD, OR the MLD failed to make a recommendation within 48 hours after being notified by the Commission; OR;
 - b. The landowner or authorized representative rejects the recommendation of the MLD and mediation in accordance with PRC 5097.94 (k) by the NAHC fails to provide measures acceptable to the landowner.
 - c. In order to protect these sites, the Landowner shall do one or more of the following:
 - (1) Record the site with the NAHC;
 - (2) Record an open space or conservation easement on the site;
 - (3) Record a document with the County.
 - d. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to Section 5.c., above.

D. If Human Remains are **NOT** Native American

1. The PI shall contact the Medical Examiner and notify them of the historic era context of the burial.
2. The Medical Examiner will determine the appropriate course of action with the PI and City staff (PRC 5097.98).

3. If the remains are of historic origin, they shall be appropriately removed and conveyed to the Museum of Man for analysis. The decision for internment of the human remains shall be made in consultation with MMC, EAS, the applicant/landowner and the Museum of Man.

V. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, the PI shall record the information on the CSVr and submit to MMC via fax by 8AM of the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction, and IV - Discovery of Human Remains.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM of the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night and/or weekend work becomes necessary during the course of construction
 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

VI. Post Construction

- A. Preparation and Submittal of Draft Monitoring Report
 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Historical Resources Guidelines (Appendix C/D) which describes the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
 - a. For significant archaeological resources encountered during monitoring, the Archaeological Data Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with State of California Department of Parks and Recreation
The PI shall be responsible for recording (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program in accordance with the City's Historical Resources Guidelines, and submittal of such forms to the South Coastal Information Center with the Final Monitoring Report.
 2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
 3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
 4. MMC shall provide written verification to the PI of the approved report.
 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Artifacts
 1. The PI shall be responsible for ensuring that all cultural remains collected are cleaned and catalogued

2. The PI shall be responsible for ensuring that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
3. The cost for curation is the responsibility of the property owner.
- C. Curation of artifacts: Accession Agreement and Acceptance Verification
 1. The PI shall be responsible for ensuring that all artifacts associated with the survey, testing and/or data recovery for this project are permanently curated with an appropriate institution. This shall be completed in consultation with MMC and the Native American representative, as applicable.
 2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
- D. Final Monitoring Report(s)
 1. The PI shall submit one copy of the approved Final Monitoring Report to the RE or BI as appropriate, and one copy to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
 2. The RE shall, in no case, issue the Notice of Completion and/or release of the Performance Bond for grading until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

PALEONTOLOGICAL RESOURCES

I. Prior to Permit Issuance

- A. Land Development Review (LDR) Plan Check
 1. Prior to Notice to Proceed (NTP) for any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, but prior to the first preconstruction meeting, whichever is applicable, the Assistant Deputy Director (ADD) Environmental designee shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.
- B. Letters of Qualification have been submitted to ADD
 1. The applicant shall submit a letter of verification to Mitigation Monitoring Coordination (MMC) identifying the Principal Investigator (PI) for the project and the names of all persons involved in the paleontological monitoring program, as defined in the City of San Diego Paleontology Guidelines.
 2. MMC will provide a letter to the applicant confirming the qualifications of the PI and all persons involved in the paleontological monitoring of the project.
 3. Prior to the start of work, the applicant shall obtain approval from MMC for any personnel changes associated with the monitoring program.

II. Prior to Start of Construction

- A. Verification of Records Search
 1. The PI shall provide verification to MMC that a site specific records search has been completed. Verification includes, but is not limited to a copy of a confirmation letter from San Diego Natural History Museum, other institution or, if the search was in-house, a letter of verification from the PI stating that the search was completed.
 2. The letter shall introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities.
- B. PI Shall Attend Precon Meetings
 1. Prior to beginning any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the PI, Construction Manager (CM) and/or Grading Contractor, Resident Engineer (RE), Building Inspector (BI), if appropriate, and MMC. The qualified paleontologist shall attend any grading/excavation related Precon Meetings to make comments

and/or suggestions concerning the Paleontological Monitoring program with the Construction Manager and/or Grading Contractor.

- a. If the PI is unable to attend the Precon Meeting, the Applicant shall schedule a focused Precon Meeting with MMC, the PI, RE, CM or BI, if appropriate, prior to the start of any work that requires monitoring.
2. Identify Areas to be Monitored
Prior to the start of any work that requires monitoring, the PI shall submit a Paleontological Monitoring Exhibit (PME) based on the appropriate construction documents (reduced to 11x17) to MMC identifying the areas to be monitored including the delineation of grading/excavation limits. The PME shall be based on the results of a site specific records search as well as information regarding existing known soil conditions (native or formation).
3. When Monitoring Will Occur
 - a. Prior to the start of any work, the PI shall also submit a construction schedule to MMC through the RE indicating when and where monitoring will occur.
 - b. The PI may submit a detailed letter to MMC prior to the start of work or during construction requesting a modification to the monitoring program. This request shall be based on relevant information such as review of final construction documents which indicate conditions such as depth of excavation and/or site graded to bedrock, presence or absence of fossil resources, etc., which may reduce or increase the potential for resources to be present.

III. During Construction

- A. Monitor Shall be Present During Grading/Excavation/Trenching
 1. The monitor shall be present full-time during grading/excavation/trenching activities as identified on the PME that could result in impacts to formations with high and moderate resource sensitivity. **The Construction Manager is responsible for notifying the RE, PI, and MMC of changes to any construction activities.**
 2. The monitor shall document field activity via the Consultant Site Visit Record (CSVSR). The CSVSR's shall be faxed by the CM to the RE the first day of monitoring, the last day of monitoring, monthly (**Notification of Monitoring Completion**), and in the case of ANY discoveries. The RE shall forward copies to MMC.
 3. The PI may submit a detailed letter to MMC during construction requesting a modification to the monitoring program when a field condition such as trenching activities that do not encounter formational soils as previously assumed, and/or when unique/unusual fossils are encountered, which may reduce or increase the potential for resources to be present.
- B. Discovery Notification Process
 1. In the event of a discovery, the Paleontological Monitor shall direct the contractor to temporarily divert trenching activities in the area of discovery and immediately notify the RE or BI, as appropriate.
 2. The Monitor shall immediately notify the PI (unless Monitor is the PI) of the discovery.
 3. The PI shall immediately notify MMC by phone of the discovery, and shall also submit written documentation to MMC within 24 hours by fax or email with photos of the resource in context, if possible.
- C. Determination of Significance
 1. The PI shall evaluate the significance of the resource.
 - a. The PI shall immediately notify MMC by phone to discuss significance determination and shall also submit a letter to MMC indicating whether additional mitigation is required. The determination of significance for fossil discoveries shall be at the discretion of the PI.
 - b. If the resource is significant, the PI shall submit a Paleontological Recovery Program (PRP) and obtain written approval from MMC. Impacts to significant resources must be mitigated before ground disturbing activities in the area of discovery will be allowed to resume.
 - c. If resource is not significant (e.g., small pieces of broken common shell fragments or other scattered common fossils) the PI shall notify the RE, or BI as appropriate, that a non-

significant discovery has been made. The Paleontologist shall continue to monitor the area without notification to MMC unless a significant resource is encountered.

- d. The PI shall submit a letter to MMC indicating that fossil resources will be collected, curated, and documented in the Final Monitoring Report. The letter shall also indicate that no further work is required.

IV. Night and/or Weekend Work

- A. If night and/or weekend work is included in the contract
 1. When night and/or weekend work is included in the contract package, the extent and timing shall be presented and discussed at the precon meeting.
 2. The following procedures shall be followed.
 - a. No Discoveries
In the event that no discoveries were encountered during night and/or weekend work, The PI shall record the information on the CSV and submit to MMC via fax by 8AM on the next business day.
 - b. Discoveries
All discoveries shall be processed and documented using the existing procedures detailed in Sections III - During Construction.
 - c. Potentially Significant Discoveries
If the PI determines that a potentially significant discovery has been made, the procedures detailed under Section III - During Construction shall be followed.
 - d. The PI shall immediately contact MMC, or by 8AM on the next business day to report and discuss the findings as indicated in Section III-B, unless other specific arrangements have been made.
- B. If night work becomes necessary during the course of construction
 1. The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.
 2. The RE, or BI, as appropriate, shall notify MMC immediately.
- C. All other procedures described above shall apply, as appropriate.

V. Post Construction

- A. Preparation and Submittal of Draft Monitoring Report
 1. The PI shall submit two copies of the Draft Monitoring Report (even if negative), prepared in accordance with the Paleontological Guidelines which describes the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program (with appropriate graphics) to MMC for review and approval within 90 days following the completion of monitoring,
 - a. For significant paleontological resources encountered during monitoring, the Paleontological Recovery Program shall be included in the Draft Monitoring Report.
 - b. Recording Sites with the San Diego Natural History Museum
The PI shall be responsible for recording (on the appropriate forms) any significant or potentially significant fossil resources encountered during the Paleontological Monitoring Program in accordance with the City's Paleontological Guidelines, and submittal of such forms to the San Diego Natural History Museum with the Final Monitoring Report.
 2. MMC shall return the Draft Monitoring Report to the PI for revision or, for preparation of the Final Report.
 3. The PI shall submit revised Draft Monitoring Report to MMC for approval.
 4. MMC shall provide written verification to the PI of the approved report.
 5. MMC shall notify the RE or BI, as appropriate, of receipt of all Draft Monitoring Report submittals and approvals.
- B. Handling of Fossil Remains
 1. The PI shall be responsible for ensuring that all fossil remains collected are cleaned and catalogued.

2. The PI shall be responsible for ensuring that all fossil remains are analyzed to identify function and chronology as they relate to the geologic history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate
- C. Curation of fossil remains: Deed of Gift and Acceptance Verification
 1. The PI shall be responsible for ensuring that all fossil remains associated with the monitoring for this project are permanently curated with an appropriate institution.
 2. The PI shall include the Acceptance Verification from the curation institution in the Final Monitoring Report submitted to the RE or BI and MMC.
- D. Final Monitoring Report(s)
 1. The PI shall submit two copies of the Final Monitoring Report to MMC (even if negative), within 90 days after notification from MMC that the draft report has been approved.
 2. The RE shall, in no case, issue the Notice of Completion until receiving a copy of the approved Final Monitoring Report from MMC which includes the Acceptance Verification from the curation institution.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies or notice of this Mitigated Negative Declaration were distributed to:

City of San Diego

Mitigation Monitoring Coordination (MS 1102B)
Council District 2
Development Services Department
Antoinette Gibbs, Planning Review
Patrick Hooper, Development Project Manager

Allison Sherwood, EAS
Shirley Edwards, City Attorney's Office
Sean Torres, LDR-Engineering
Craig Hooker, LDR-Landscape Reviewer
Tony Kempton, Long Range Planning (MS 5A)

Other

Jeffrey Russell
Mike Taylor
Phillip Taylor
Mark Vacha
Joshua Whalen
Historical Resources Board (87)
Carmen Lucas (206)
Jerry Schaefer, Ph.D. (209)
South Coastal Information Center @ San Diego State University (210)
San Diego Archaeological Center (212)
Save Our Heritage Organisation (214)
Ron Christman (215)
Louie Guassac (215A)
Clint Linton (215B)
San Diego County Archaeological Society (218)
Kumeyaay Cultural Repatriation Committee (225)
Native American Distribution (PUBLIC NOTICE ONLY 225A-R)
 Barona Group of Capitan Grande Band of Mission Indians (225A)
 Campo Band of Mission Indians (225B)
 Ewiiapaayp Band of Mission Indians (225C)
 Inaja and Cosmit Band of Mission Indians (225D)
 Jamul Indian Village (225E)
 La Posta Band of Mission Indians (225F)
 Manzanita Band of Mission Indians (225G)
 Sycuan Band of Mission Indians (225H)
 Viejas Group of Capitan Grande Band of Mission Indians (225I)
 Mesa Grande Band of Mission Indians (225J)
 San Pasqual Band of Mission Indians (225K)
 Santa Ysabel Band of Diegueño Indians (225L)
 La Jolla Band of Mission Indians (225M)
 Pala Band of Mission Indians (225N)
 Pauma Band of Mission Indians (225O)
 Pechanga Band of Mission Indians (225P)
 San Luiseno Band of Mission Indians/Rincon (225Q)
 Los Coyotes Band of Indians (225R)
Ocean Beach Planning Board (367)
Ocean Beach Town Council (367-A)

Ocean Beach Merchants Association (367-B)

VII. RESULTS OF PUBLIC REVIEW:

- ☐ No comments were received during the public input period.
- ☐ Comments were received but did not address the draft Mitigated Negative Declaration finding or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.
- ☒ Comments addressing the findings of the draft Mitigated Negative Declaration and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft Mitigated Negative Declaration, the Mitigation, Monitoring and Reporting Program and any Initial Study material are available in the office of the Land Development Review Division for review, or for purchase at the cost of reproduction.

Allison Sherwood
Allison Sherwood, Senior Planner
Development Services Department

November 6, 2007
Date of Draft Report

January 2, 2008
Date of Final Report

Analyst: **Cass**

Jeffrey A. Russell, Esq.
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San Francisco, CA 94105
savepescadero@yahoo.com

November 26, 2007

VIA E-MAIL

Marc Cass
Environmental Planner
Development Services Center
City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101

Re: Pescadero House, Project No. 86511

Dear Mr. Cass:

I have reviewed the draft Mitigated Negative Declaration (MND) for the above-referenced project ("Project") and appreciate the opportunity to provide comments on the MND. As a former resident of the structure directly across the street from the site for the proposed Project, I have had the ability to directly contemplate and assess the impacts that the Project will have on the surrounding neighborhood and adjacent coastal bluff.

The proposed Project, located at 1466 Pescadero Drive ("Site"), would create a number of significant adverse impacts pursuant to the California Environmental Quality Act (Cal. Pub. Res. Code §21000 et seq., hereinafter "CEQA") and the CEQA Guidelines (Cal. Admin. Code Title 14, §15000 et seq., hereinafter "CEQA Guidelines"). CEQA requires preparation of a Negative Declaration or MND when there is no substantial evidence that a project may have a significant effect on the environment.¹ However, where a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency must prepare an Environmental Impact Report (EIR).² As described below, this Project will have a number of significant effects on the environment, mandating preparation of an EIR pursuant to CEQA.

I.

THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON COASTAL ACCESS AND COASTAL RESOURCES

The coastal bluff on the western perimeter of the site is extremely vulnerable to high rates of erosion. According to the developer's geotechnical consultant, the bluff edge at the site "receded 16 to

¹ CEQA Guidelines, §15070.

² *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68 (1974).

20 feet over a 23-year period, a short-term average rate of 0.69 to 0.87 feet/year (extrapolates to 52 to 62-feet in 75 years).³ Further review of the geotechnical reports for the Project reveal that the foregoing is a conservative estimate: "The geotechnical consultant indicates that approximately 8 to 10 feet of bluff top recession occurred between 2000 and 2006 (6/13/06, p. 7). If a recession rate of 8 to 10 feet in 6 years is extrapolated, the bluff top would recede (retreat) 100 to 125 feet in 75 years."⁴

The extremely high rate of erosion at the Site is hardly surprising. A comprehensive study of the bluff erosion between Newport Avenue and Osprey Street (which includes the Site) commissioned by the Army Corps of Engineers in 1976 predicted just such a high rate of erosion for the Site and neighboring parcels. According to the study, the bluff eroded at a rate of up to eight inches per year between 1967 and 1974. A map associated with a "Status Quo" alternative in the study (which assumed no new coastal armoring) predicted that the bluff edge at the Site will recede to the footprint of the proposed Project by 2024. Indeed, storm surge during the subsequent 1982-83 El Nino destroyed the existing sea wall at the Site, leading to evacuation and demolition of the existing structure on the bluff edge.

Using the most conservative erosion rate asserted forth by the developer's geotechnical consultant, the bluff edge will recede 52 feet over the next 75 years unless a protective device is constructed. By that rationale, the bluff edge would recede to the ground floor of the Project (which would be cantilevered to 25 feet from the bluff edge) by 2043, or approximately 36 years from now. The bluff edge would recede to the Project's subterranean parking garage (40 feet from the bluff edge) by 2065, or approximately 58 years from now. Using the geotechnical consultant's most aggressive erosion rate of 1.7 feet/year, the bluff will 125 feet over the next 75 years. At that rate, the bluff would meet the footprint of the ground floor by 2022, and would meet the subterranean garage by 2031.

The high rate of bluff recession at the Site will mean that the Project as proposed would have a number of significant adverse effects on coastal access and coastal resources at the Site. First, using the geotechnical consultant's most conservative rate of erosion, bluff erosion will threaten the primary structure as early as 36 years from now if the cantilever system does not function as planned. Even if it does, erosion will threaten the subterranean garage in 58 years, well before the lapse of the 75 year "economic lifespan" of the structure. We can assume that the owner of the structure will pursue construction of a seawall at the Site prior to either point in order to prevent damage to the structure. It is well established that seawalls have a negative impact on coastal access and resources by preventing the natural process of sand replenishment that is a result of bluff erosion. Therefore, the Project as proposed

³ See City of San Diego Cycle 19 Review, LDR-Geology, Issue No. 6, dated 3/26/07.

⁴ See City of San Diego Cycle 10 Review, LDR-Geology, Issue No. 30, dated 7/7/06.

1. The Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering dated February 9, 2007 page 10 concludes that "Based on our site-specific study, it is our opinion that an *overall* retreat rate of approximately two to three feet per decade or 15 to 22 feet in 75 years can be used for design purposes." The report also indicates that there may be up to approximately 20 to 25 feet of bluff top recession during the economic life of the proposed structure (75 years)."
2. The Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering dated February 9, 2007 page 7 and 8 notes that "The Shoreline Erosion Assessment and Atlas of the San Diego region, prepared by the California department of Boating and Waterways and the San Diego Association of Governments, and reports from some other sites with similar geologic conditions indicate that the *overall* recession rate was estimated to be approximately two to three feet per decade or 15 to 22 feet in 75 years."
3. The Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering dated February 9, 2007 page 10 concludes that "It should be noted that the amount of recession of the top of the bluff is controlled by both the geologic and geometric conditions at the site. As noted previously, the bluff is characterized by a lower bluff comprised of very dense, over-consolidated, Cretaceous-age sandstone and an upper bluff comprised of unconsolidated, Quaternary-age sandy terrace deposits. The bluff is approximately 34 feet high with the lower approximately 11 to 12 feet exposing the Cretaceous-age sediments and the upper 22 to 23 feet exposing the Quaternary-age sediments. The Cretaceous-age sediments are much more resistant to erosion than the overlying Quaternary-age sediments; the geometry of the Cretaceous-age sediments controls the amount of erosion that occurs in the overlying Quaternary-age sediments."
4. The MND does not need to analyze the construction of the sea wall because it is not currently being proposed and is not part of the project. Additionally, any future construction of a sea wall would be up to the discretion of the applicant. Given the conditions of the site at some point in the future, the applicant may propose a sea wall, at which point, it would be subject to environmental review.

With respect to the recession rates, the Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering dated February 9, 2007 page 10 concludes that "Based on our site-specific study, it is our opinion that an *overall* retreat rate of approximately two to three feet per decade or 15 to 22 feet in 75 years, as discussed above, can be used for design purposes. It is anticipated that there may be up to approximately 20 to 25 feet of additional bluff top recession during the economic life of the proposed structure (75 years)."

will have a significant adverse impact on coastal access and resources by making construction of a seawall within the next 58 years all but certain.

Second, using the same conservative rate of erosion, the ground floor of the structure would begin to project over the eroded bluffs in roughly 36 years. In 56 years, the structure would project over the eroded bluffs, and presumably the beach and high tide line. This would have obvious impacts on the viability of the beach for use by the public and by animal or plant species, since the beach would be located directly underneath a two-story, 30-foot tall structure, eliminating direct sunlight and also creating safety concerns. It would also conflict with the Public Trust Doctrine, the well-established legal principle that the state must hold its waterways in trust for the public's benefit. California courts have held that public beaches and navigable waters are held in trust by the state for the public's benefit.⁵ When the mean high tide line moves landward due to shoreline erosion, so does the public trust.⁶ Once the beach and shoreline move beneath the cantilevered portion of the Project, the Project would lie in Public Trust land. Since even the most conservative rate of erosion would place that moment 36 years from now, the Project will clearly have a significant adverse effect on public access to the coast by occupying space that will be directly above a public beach. Using more aggressive rates, the structure could be projecting over the beach as early as 15 years from now.

The bluff erosion rates used above do not account for sea level rise and increased frequency of El Nino storm events triggered by global warming. Sea level rise combined with increased storm events will only precipitate bluff erosion at the Site. The Project as proposed is not designed or sited to account for severely high rate of bluff erosion that will occur as a result of global warming and the attendant rise in sea level and El Nino storm frequency.

II. THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE AESTHETICS AND CHARACTER OF THE NEIGHBORHOOD

Due to its bulk and scale, the Project will have a number significant adverse effects on the aesthetics and character of the surrounding neighborhood.

First, the Project would obstruct an existing view of the ocean from Pescadero Drive looking south. While an existing five foot tall wooden fence partially obscures the view, the ocean is still visible

⁵ *Lechuza Villas West v. Cal. Coastal Comm'n*, 70 Cal. Rptr. 2d 399, 417 n.19 (Ct. App. 1997) ("All navigable waterways are held in trust by the state for the benefit of the public.").

⁶ James G. Titus, *Rising Seas, Coastal Erosion, and the Takings Clause: How to Save Wetlands and Beaches Without Hurting Property Owners*, 57 Md. L. Rev. 1279, 1368 (1998).

5. The Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering dated February 9, 2007 page 7 concludes that "Based on the available information, it appears that the overall recession rate of the Point Loma Formation at the base of the bluff in this section of the beach is less than a few inches per year and that the recession rate of the Quaternary-age materials ranges from less than a few inches per year to several feet per year with an average rate of a few inches per year in unprotected areas." Moreover on page 10, it is noted that "We have also analyzed the amount of anticipated bluff top recession by assuming that the Cretaceous-age sediments might erode as much as approximately ten feet during the next 75 years and that the overlying Quaternary-age sediments would either mimic their present configuration or would erode back to a more stable angle of approximately 35 degrees (or a combination of the two). The ten feet of basal retreat combined with an overall flattening of the terrace deposits to an approximate 35-degree angle is the more conservative procedure; that is, it yields.
6. The Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering dated February 9, 2007 page 10 concludes that "Based on our site-specific study, it is our opinion that an overall retreat rate of approximately two to three feet per decade or 15 to 22 feet in 75 years can be used for design purposes. It is anticipated that there may be up to approximately 20 to 25

from Pescadero Drive near Pescadero Avenue since the elevation there is slightly above the elevation at the Site. The Project would extend to the seaward side of Pescadero Drive and would be nearly 30 feet tall. When standing on Pescadero Drive, it is clear that constructing a 30 foot structure where a five foot fence currently sits will completely eliminate the existing view of the ocean from that point. Incidentally, enforcement of the 40-foot setback for the first and second stories of the building would preclude this impact to coastal views. However, the Project as currently proposed would result in a significant impact on an existing coastal view by eliminating it.

Second, the Project will result in substantial shading of Pescadero Drive, a heavily used pedestrian walkway along the coast between Ocean Beach and neighboring Sunset Cliffs. At 30-feet tall, with little articulation and five feet of setback from the alley on the north and east sides for the entire length and height of the structure, the Project is a virtual box that will eliminate sun exposure on Pescadero Drive. During Winter Solstice, the sun barely rises above the Oceana condominium complex, located southerly adjacent to the Site. However, since the existing one-story structures on the Site are roughly 12 feet tall and 10 feet from the alley, the sunlight is able to penetrate over the Oceana complex and onto Pescadero Drive. The Project, just five feet from the alley for the entire length and 30-foot height of the structure, will clearly eliminate sunlight from this length of Pescadero Drive for a good portion of the year. During winter, and perhaps even late fall and early spring, the sun will be too low to penetrate the 20-foot wide alley just five feet north of a 30-foot tall structure. This will constitute a significant adverse effect, especially since Pescadero Drive, as the first public right-of-way from the ocean, is a heavily used pedestrian thoroughfare during all months of the year.

Third, the Project will be incompatible with surrounding development because of the bulk and scale described above. Neighboring structures on the north side of Pescadero Drive, which are mostly of the 1920's and 30's bungalow style, are set back from the alley an average of ten feet. With peaked roofs, fine-grained articulation and ample side and rear yards, the existing structures create an informal, classic Californian beach town motif and allow for plenty of airspace. The Project, which uses the maximum square footage allowed per the Municipal Code as well as the minimum five foot setback from the street and the maximum 30 feet of height, would constitute a large box punctuated with glass and steel. It is therefore clearly inconsistent with the established character of the neighborhood, which embraces larger setbacks, open spaces, lower rooflines and enhanced articulation. Designed in a minimalist style with sharp joints and an abundance of steel and glass, the Project does not reflect the style or materials of the vernacular exhibited by the existing homes in the immediate vicinity. Because the Project would be incompatible with surrounding development, it would have a significant adverse effect on the aesthetics and character of the neighborhood.

III.

**DUE TO ITS LOCATION ON A HIGHLY UNSTABLE COASTAL BLUFF, THE PROJECT
WILL HAVE A SIGNIFICANT ADVERSE EFFECT ON HUMAN BEINGS**

feet of additional bluff top recession during the economic life of the proposed structure (75 years)."

- 7.. Under CEQA, impacts to views would be considered significant if the public viewing area is a designated view corridor or some other area designated by the adopted land use plan as being considered a public viewing area. Since Pescadero Drive is not a designated public view corridor or public viewing area as indicated in the Ocean Beach Community Plan, project implementation would not result in a significant impact to views. Additionally, CEQA does not protect views emanating from private property.

However, projects within the first public right-of-way and the beach, a view corridor not less than the side-yard setback shall be maintained. In accordance with SDMC § 132.0403, the project would comply with this requirement.

8. CEQA does not protect shading of streets. A significant impact with respect to shading may occur if a project would cause a substantial amount of shading to preclude the future use of solar panels. Since Pescadero Drive is a street, any shading falling on Pescadero Drive resulting from project implementation would not be significant under CEQA.
9. When assessing neighborhood character, the required radius for project noticing (300-foot radius) is the starting point for analysis. This radius includes more than just the north side of Pescadero Drive. Therefore, the north side of Pescadero Drive would not serve as the baseline for establishing overall neighborhood character. When considering architectural style within and beyond the 300-foot radius, the style varies considerably from Craftsman architecture to Spanish Revival. There is no single, common architectural theme in the area such as those that exist in the Historic Gaslamp District or Old Town San Diego. As such, project implementation would not strongly contrast with surrounding development and would in general compatibility with the area. Therefore, project implementation would not result in a significant impact to the existing neighborhood character.

As described above, the Project would be threatened by bluff erosion as early as 15 years from now. At the point when the bluff either encroaches on the ground floor of the structure or the subterranean garage, the structure could be subject to collapse, threatening not only the occupants of the structure, but members of the public who are using the beach directly underneath and adjacent to the structure. Because the Project, when threatened by bluff erosion in the immediate future, could expose people to harm from structural collapse, it would have a significant adverse effect on human beings, which requires a mandatory finding of significance pursuant to CEQA.

IV.

THE PROJECT MAY RESULT IN ADVERSE PHYSICAL AFFECTS TO A HISTORIC STRUCTURE

The existing structures on the Site, which are over 45 years old, would be demolished in order to construct the Project. Although the MND asserts that the structures are not historic resources, that conclusion is not supported by the requisite historic survey pursuant to the Historical Resources Guidelines of the Land Development Code ("Historical Resources Guidelines"). According to the Historical Resources Guidelines, a historic survey must be prepared when alterations or demolition are proposed for any structure over 45 years old. The historic survey must contain background research (including records searches, literature searches and interviews) and field reconnaissance conducted under the direction of a qualified professional. "Details such as the names of the architect, builder and the year built, along with information regarding past owners are an important asset in the evaluation process...Research should include a chain of title and literature search conducted at local archives."⁷

Since a historic survey was not prepared for the Project, it is unclear whether demolition of the existing structures would constitute a significant adverse impact on a historic resource pursuant to CEQA. A historic survey that is consistent with the Historical Resources Guidelines is necessary in order to determine whether the existing structure is a historic resource.

Because this Project will have a number of significant effects on the environment, preparation of an EIR is required pursuant to CEQA. I look forward to continued participation in the review process for this Project.

Very truly yours,

⁷ Historical Resources Guidelines, p.28.

10. The Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering dated February 9, 2007 page 10 notes that "We have also analyzed the amount of anticipated bluff top recession by assuming that the Cretaceous-age sediments might erode as much as approximately ten feet during the next 75 years and that the overlying Quaternary-age sediments would either mimic their present configuration or would erode back to a more stable angle of approximately 35 degrees (or a combination of the two). The ten feet of basal retreat combined with an overall flattening of the terrace deposits to an approximate 35-degree angle is the more conservative procedure; that is, it yields more anticipated erosion than the 10 feet of basal retreat combined with a configuration of the terrace deposits that mimics the present configuration. The amount of bluff top recession for the 10 feet basal retreat with a 35-degree terrace deposit angle during the projected 75-year period was calculated to range from approximately 15 to 24 feet. It can be noted that the location of the 75-year recession line is seaward (west) of both the 1.5-Factor of Safety line and the 1.1-Pseudostatic Factor of Safety Line as determined by our computer-assisted slope stability analysis." Since the project would result in the required Factor-of-Safety, implementation would not result in a significant impact to the public health and safety.
11. During the Initial Study it was determined that the existing structures are not potentially historic. Therefore, demolition of the structures would not result in significant adverse impact to a historical resource under CEQA. Moreover, the City's Historical Resources Guidelines state, "surveys are required for properties within a Project's Area of Potential Effect (APE) which are 45 years in age or older and which have integrity of setting, location, design, materials, workmanship, feeling and association. Since, the project does meet the 45 year trigger, but does not possess any of the requisite additional attributes, the structure did not meet both requirements for the preparation of a historical resource evaluation report and one was not required.



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November 27, 2007

Marc Cass
Environmental Planner
SD Development Services Center
1222 First Avenue, MS 501
San Diego, CA 92101
mcass@Sandiego.gov

RE: Project No. 86511
Comments on 1466 Pescadero Drive, in San Diego, California

Dear Mr. Cass

Please accept these comments made on behalf of the San Diego Chapter of the Surfrider Foundation. The Surfrider Foundation is a grass roots nonprofit environmental organization dedicated to the protection and enjoyment of the world's waves, oceans and beaches for all people through conservation, activism, research and education.

The proposed project is described as the demolition of two single family residences and the construction of multifamily residential units at 1466 Pescadero Drive in Ocean Beach. The end of Pescadero Drive has a very high erosion rate. According to the file, the property has eroded 16-20 feet in the last 23 years. Nevertheless, the project proposes to encroach to within 25 feet of the bluff edge.

Surfrider's interest in this project stems from our opposition to seawalls. Although a seawall is not proposed at this time, it is reasonably foreseeable that a seawall will be requested in the future. Even assuming that the erosion rate remains steady, the project will be threatened by erosion in approximately 40-50 years. Regardless of whether its setback is considered at 40 feet or 25 feet, a mitigated negative declaration is inappropriate when a seawall and its attendant impacts are reasonably foreseeable. Furthermore, the project, as proposed, fails to comply with the municipal code.

A. The Project Fails to Comply with the Setback Requirements of the Municipal Code.

Section 143.0143 mandates a 40 foot bluff edge setback from coastal bluffs, except under certain narrowly constrained conditions. The purpose of this code is to prohibit construction in areas of high geological instability and to prevent the construction of seawalls and other shoreline protective devices. (SDMC § 143.0143(f)(1); See also, Pub. Res. Code § 30253.) Seawalls have a significant adverse affect on public access, aesthetics and on biological resources. (See, Meg Caldwell and Craig Holt Segall "No Day at the Beach: Sea Level Rise, Ecosystem Loss, and Public Access Along the California

12.

12. Based on Christian Wheeler Engineering's recession rate, a seawall is not anticipated within 75 years. Under CEQA, a reasonably foreseeable probable future project that may have impacts related to the current project would have to be evaluated within the same environmental document. Since a seawall is not expected to be needed within 75 years and the initiation of a seawall would be the responsibility of the applicant or future property owner, a seawall does not need to be analyzed in the MND. Moreover, if a seawall is proposed at a future date, the project would be a discretionary action and would be subject to CEQA review at that time.

13.

13. As currently proposed, the foundation of the structure would be setback 40 feet from the bluff edge with the lower and upper levels of the structure being cantilevered from the footings extending out to 25-feet from the bluff edge. As such, the project complies with SDMC § 143.0143 (f), which states "All development including buildings, accessory structures, and any additions to existing structures shall be set back at least 40-feet from the coastal bluff edge, except as follows: 'Setbacks from the top of the slope are measured from the face of footing (for example see the 2001 CBC-18-1-1)'. The structure would be founded landward of the 40-foot bluff edge setback; therefore, the proposed structure is setback 40-feet from the bluff edge.

Coast." 34:2 Ecology Law Quarterly 533, 539-541 (2007).) Strict adherence to Section 143.0143 is necessary to prevent the significant environmental impacts caused by seawalls.

The municipal code does permit new development within 25 feet of the bluff edge when certain special conditions are met. Essentially, development is permitted closer than the 40 foot setback if the applicant proves that the new development will not be in danger from erosion and the applicant is willing to accept a deed restriction prohibiting the construction of shoreline protective devices (ie. seawalls) in the future. (SDMC § 143.0143(f)(1).) In other words, the applicant must guarantee that the proposed development is safe from erosion and accept the risk that their geology report is wrong.

The proposed mitigated negative declaration, planned development permit, site development permit, and coastal development permit fail to impose a deed restriction on the development. Thus, there is nothing to prevent the construction of a seawall in the future. Considering the predicted increases in sea level rise, and the predictable effects of El Nino conditions (large storms, large waves and large bluff collapses), any future owner of the project is almost guaranteed to seek to construct a seawall. In order to avoid and mitigate these reasonably foreseeable impacts, the City must require the applicant accept a deed restrictions prohibiting the construction of shoreline protective devices.

The applicant will likely argue that it has met the 40 foot setback requirements by simply placing the foundation at the 40 foot setback line and cantilevering the remaining portion of the home to within 25 feet of the bluff edge. However, this argument lacks merit.

An "encroachment" does not depend on the location of the building foundation or support structure. Section 143.0143(f)(1) states,

Reductions from the 40-foot setback shall be approved only if the geology report concludes the structure will not be subject to significant geologic instability, and not require construction of shoreline protection measures throughout the economic life span of the structure. In addition, the applicants shall accept a deed restriction to waive all rights to protective devices associated with the subject property.

While the proposed cantilevered foundation may or may not help demonstrate that the structure is geologically stable, the building still encroaches into the 40 foot setback. To comply with the Municipal Code, the applicant must accept a deed restriction waiving all rights to build a protective device. Because the permits fail to require a waiver of all rights to protective devices, the project fails to comply with the Municipal Code. The project must be denied.

14. See comment #13, the project as proposed is setback 40 feet from the bluff edge it complies with SDMC § 143.0143. Proposed reductions from the 40 foot setback requirement would require the applicant to accept a deed restriction to waive all rights to protective devices associated with the subject property. As proposed, a deed restriction is not required.
15. See Comment # 14.
16. See Comment # 15.

**B. Because the Mitigated Negative Declaration Falls to Require a
Waiver of Future Shoreline Protection, an EIR Must Be Prepared
to Analyze the Impacts of a Seawall.**

Of course, even a forty foot setback supplies questionable stability for any proposed structure at this location. According to the consultant, the bluff has eroded at a rate of 16-20 feet in the last 23 years. Thus, a 40 foot setback, assuming the proposed structure is considered stable until the bluff edge reaches the foundation, will be safe for approximately 46 years -- well below the 75 year economic life of the structure. Without a deed restriction prohibiting the construction of future seawall devices, a future owner of the project is almost guaranteed to request a seawall in the future.

CEQA requires a full environmental impact report whenever it can be fairly argued that the project may directly or indirectly cause a significant impact on the environment. (Pub. Res. Code section 21080.) Because of the high erosion rate on this lot, construction of a seawall is reasonably foreseeable indirect impact which must be analyzed. (Pub. Res. Code § 21065.) As discussed in numerous articles and books, seawalls have significant adverse impacts on the environment, including denial of public access, loss of shoreline sand supply, and loss of habitat. (See, Meg Caldwell and Craig Holt Segall "No Day at the Beach: Sea Level Rise, Ecosystem Loss, and Public Access Along the California Coast." 34:2 Ecology Law Quarterly 533, 539-541 (2007).) In addition, because the project is directly east of an important wave resource, the EIR should analyze the impacts on surfing resources caused by building a seawall. Thus, the applicant must be willing to accept a deed restriction prohibiting the construction of a shoreline protective device, or an EIR must be prepared analyzing the potential impacts of constructing a seawall.

Thank you for permitting the San Diego Chapter of the Surfrider Foundation an opportunity to comment on the project. Please inform us of any public hearings regarding the project. We look forward to working further with the City on these issues.

Sincerely,



Julia Chunn
Chair
San Diego Chapter
Surfrider Foundation



Todd T. Cardiff, Esq.
Advisory Board Member
San Diego Chapter
Surfrider Foundation

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17. See Comment # 12 [a seawall is not anticipated within 75 years (the economic lifespan of the structure)]. With respect to the recession rates, the Preliminary Geotechnical Investigation prepared by Christian Wheeler Engineering dated February 9, 2007 page 10 concludes that "Based on our site-specific study, it is our opinion that an overall retreat rate of approximately two to three feet per decade or 15 to 22 feet in 75 years, as discussed above, can be used for design purposes. It is anticipated that there may be up to approximately 20 to 25 feet of additional bluff top recession during the economic life of the proposed structure (75 years)."

With respect to the seawall, a reasonably foreseeable probable future project that may have impacts related to the current project would have to be evaluated along with the current project and included within the same environmental document. Since a seawall is not expected to be needed within 75 years and the initiation of a seawall project would be the responsibility of the applicant or future property owner, a seawall does not need to be analyzed in the MND. Moreover, if a seawall is proposed at a future date, the project would be a discretionary action and would be subject to CEQA review at that time.

City of San Diego
Development Services Department
LAND DEVELOPMENT REVIEW DIVISION
1222 First Avenue, Mail Station 501
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INITIAL STUDY
Project No. 86511

SUBJECT: Pescadero House; PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP) and a COASTAL DEVELOPMENT PERMIT (CDP) to allow the demolition of two single-family homes and the construction of a two-unit, split-level multi-family development with underground parking. The site is located at 1466 Pescadero Drive within the Ocean Beach Planning Area, Sensitive Coastal Overlay Zone, Ocean Beach Emerging Historic District, Parking Impact Overlay Zone and Council District 2. Legal Description: Lot 7 and 8 in Block 44-Map of Ocean Beach being a subdivision of Pueblo Lots 195, 202 and 203 and that portion of Ocean Boulevard closed and vacated by resolution ordering work no. 103046, document 435927 on July 17, 1951.

I. PURPOSE AND MAIN FEATURES:

The project is a Planned Development Permit (PDP), Coastal Development Permit (CDP) and a Site Development Permit (SDP) to allow the demolition of two single-story detached structures and the construction of a two-unit, split-level, multi-family residential structure with subterranean parking and ground-level parking on a 7,436 square-foot lot. The PDP would allow the following deviations: (1) a deviation to allow a parking space width and length of 7.5' by 17' where 9.5' by 18' is required (2) a deviation to allow a visibility area of 11' where 20' is required and (3) a deviation to allow a minimum driveway aisle width of 9'11' where 12' is required. The SDP would allow development on a site that supports Environmentally Sensitive Lands in the form of *Sensitive Coastal Bluffs* and *Coastal Beaches* as defined by the Land Development Code and outlined in SDMC § 143.0143 and SDMC § 143.0144. The CDP would allow development within the Coastal Overlay Zone.

The project would result in a two-unit, split-level, multi-family residential structure on a site that supports *Sensitive Coastal Bluffs*, which are regulated by SDMC § 143.0143. Section (f) of SDMC § 143.0143 requires development be set back at least 40 feet from the edge of the coastal bluff. The project proposes to be founded landward of the 40-foot coastal bluff; however, a portion of the building would be cantilevered over the 40-foot setback to approximately 25-feet from the edge of the coastal bluff (See Geology Discussion).

The site is zoned RM-2-4 Zone, which permits a maximum density of 1 dwelling unit for each 1,750 square feet of lot area [SDMC § 131.0406 (b) (2)]. The project would comply with the allowable Floor-Area-Ratio (FAR) of 0.70 by proposing 0.698 (5,205 square-feet on a 7,436 square-foot site). The ground-floor unit would be approximately 2,540 square-feet, including a 220 square-foot, 1 car garage and a 43 square-foot storage area. The second-floor unit would be approximately 2,625 square-feet. The unit proposed on the ground-floor level (first-floor) would consist of two-bedrooms, two-bathrooms, a kitchen area and a living room. The unit proposed on the second-floor level would consist of three-bedrooms, three-bathrooms, a living room and a kitchen. The roofing

would consist of a standing seam copper metal roof with a stainless steel railing. The façade of the structure would consist of horizontal cedar cladding with metal flat-seam cladding. An approximately 482 square-foot roof deck would be included at the western portion of the project. The project would provide a total of 5 on-site parking spaces consisting of 3 spaces to be provided in a subterranean parking garage, 1 space to be provided in a ground-level parking garage and 1 space to be provided uncovered at the ground-level. An elevator would connect the subterranean garage to both units.

Grading quantities would consist of 1,064 cubic-yards of cut and export at depths not to exceed approximately 12 feet. Landscaping on-site would be in conformance with the City's Landscape Technical Manual and would not grow higher than 3 feet within the side-yard setback so as to preserve a view corridor running through the side yard setback.

II. ENVIRONMENTAL SETTING:

The previously developed 0.18 acre site is located at 1466 Pescadero Drive within the Ocean Beach Planning Area. The site currently supports two small single-family homes and sits between the first public right-of-way and the coastal bluff. The site is designated as residential (25-37 dwelling units/acre) in the Ocean Beach Community Planning area. The immediate surrounding area is a mix of single-family and multi-family homes with the same land use designations or similar land use designations.

The site is relatively flat with an approximate elevation of 33 feet Above Mean Sea Level (AMSL). The site is not within nor adjacent to the Multi-Habitat Planning Area (MHPA) of the City's Multiple Species Conservation Program (MSCP) Subarea Plan area and does not support any sensitive vegetation.

III. ENVIRONMENTAL ANALYSIS: See attached Initial Study checklist.

IV. DISCUSSION:

*During the environmental review of the project, it was determined that construction could potentially result in significant but mitigable impacts in the following area(s): **Historical Resources (Archaeology) and Paleontology.***

Historical Resources (Archaeology)

According to the City's Historical Resources Sensitivity Map, the site is located in an area with a high potential for subsurface archaeological resources. The project would export approximately 1,064 cubic-yards of cut at depths of up to 12-feet. Due to the quantity of cut and the potential to impact archeological finds on-site, archeological monitoring would be required during grading. In the event that such resources are discovered, excavation would be halted or diverted, to allow recovery, evaluation, and recordation of materials. A Mitigation, Monitoring and Reporting Program, contained in Section V of the attached Mitigated Negative Declaration, would mitigate potentially significant impacts archaeological resources to below a level of significance.

Paleontology

The project is located within the Bay Point Formation, which has a high potential for paleontological resources. The project proposes grading quantities of approximately 1,064 cubic yards of cut at depths of up to 12-feet. Due to the grading quantities and the high sensitivity formation, the project does have the potential to impact paleontological resources. As such, a Mitigation, Monitoring and Reporting Program, contained in

Section V of the attached Mitigated Negative Declaration, would mitigate potentially significant impacts to paleontological resources to below a level of significance.

*The following environmental issues were considered in depth during the environmental review of the project and determined **NOT** to be potentially significant: **Historical Resources (Architecture), Water Quality/Hydrology and Geology.***

Historical Resources (Architecture)

As a baseline, the City of San Diego has established a threshold of 45 years of age to initiate an evaluation of historical significance under the California Environmental Quality Act (CEQA). CEQA Public Resources Code section 21084.1 states that "a project that may cause a substantial adverse change in the significance of a historical resource is a project that may cause a significant effect on the environment." A historical resource is a resource that is listed in, or determined to be eligible for, the California Register of Historical Resources. Historical resources that are listed in a local historical register are presumed to be historically significant, unless a preponderance of the evidence indicates the resource is not historically significant.

The project proposes to demolish structures that are 45 years in age or older. However, the structures do not possess integrity of design, architecture or workmanship. They are not representative examples of the small Craftsman style architecture that typifies the Ocean Beach Emerging Historic Cottage District. Additionally, the property is not listed in or determined to be eligible for listing in the California Register of Historical Resources. As such, the existing single-family homes are not historically significant. Therefore, project implementation would not result in a significant impact to a historical resource under CEQA and no mitigation is required.

Water Quality/Hydrology

Proper engineering controls and best management practices consisting of Site Design BMPs, Source Control BMPs, Priority Project Category BMPs and Structural Treatment Control BMPs in accordance with the San Diego Municipal Code Chapter 14, Article 2, Division 1 (Grading Regulations) and Division 2 (Storm Water Runoff Control and Drainage Regulations), and Chapter 4, Article 3, Division 3 (Stormwater Management and Discharge Control) would minimize water runoff and soil erosion during excavation/construction activities. Specifically, a condition has been added to the SDP that requires the applicant to incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1, prior to any construction permits being issued. Additionally, the applicant is conditioned to submit a Water Pollution Control Plan (WPCP) prior to any work being done on the site. The resultant discharge from the site would then be substantially free of pollutants and sediments to the maximum extent practicable. Therefore, permit issuance would preclude a significant impact to Water Quality/Hydrology and no mitigation is required.

Geology

In order to assess the geologic conditions of the site, a Geotechnical Investigation dated February 9, 2007 for 1466-1472 Pescadero Drive was prepared for the project and is summarized below. The project site is located within hazard category 43 which encompasses generally unstable coastal bluffs characterized by locally high erosion rates. The project would be conditioned to construct all of the foundation landward of the 40-foot coastal bluff edge setback. The project is proposing to cantilever the structure over the 40-foot coastal bluff edge setback. The foundation would be properly embedded into

the competent native materials. The foundation would not be subject to failure due to the anticipated coastal erosion forces. Since the project would be conditioned to require any part of the foundation to be landward of the 40-foot coastal bluff edge, permit issuance would preclude a significant impact under CEQA and no mitigation is required.

V. RECOMMENDATION:

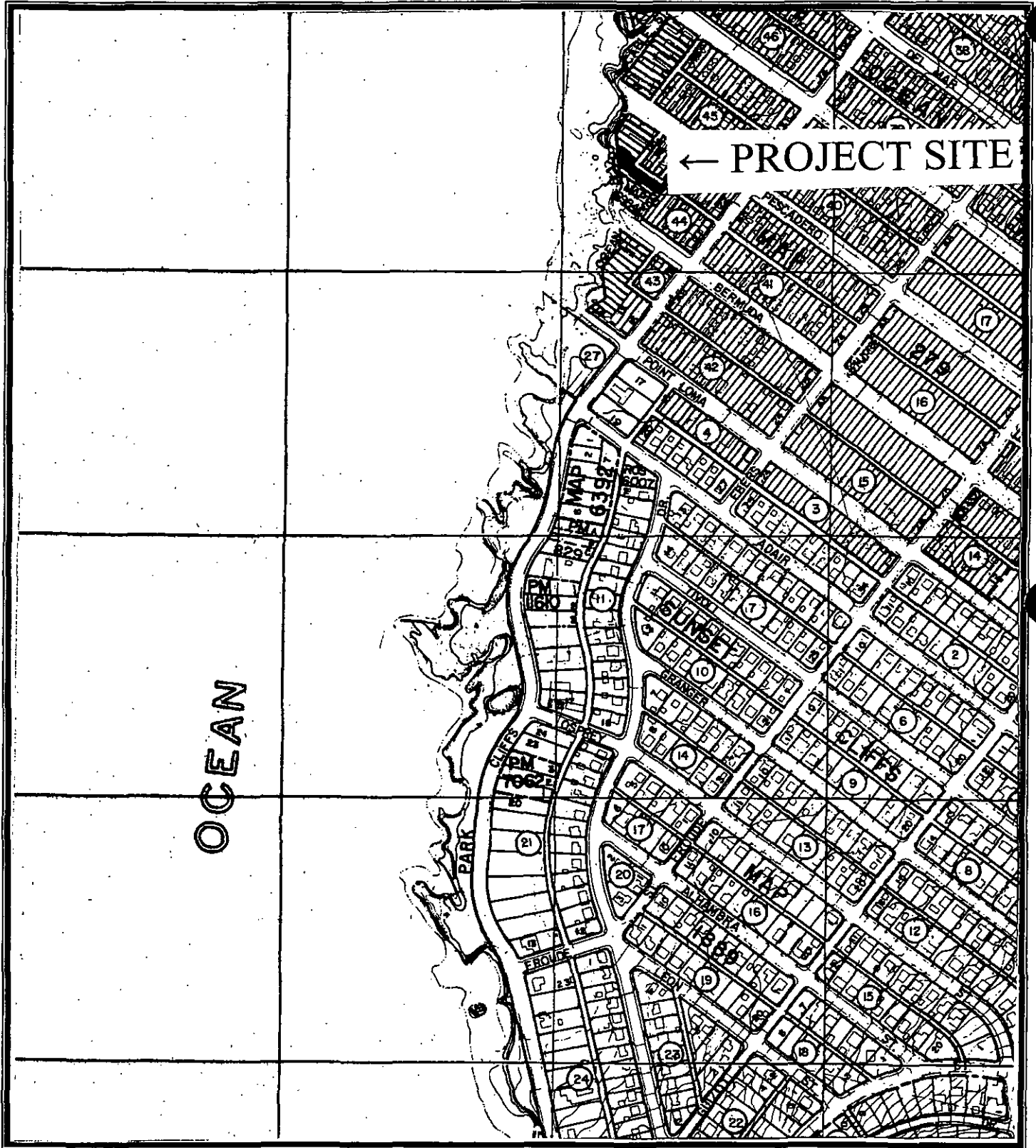
On the basis of this initial evaluation:

- ☐ The proposed project would not have a significant effect on the environment, and a NEGATIVE DECLARATION should be prepared.
- ☒ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in Section IV above have been added to the project. A MITIGATED NEGATIVE DECLARATION should be prepared.
- ☐ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT should be required.

PROJECT ANALYST: Cass

Attachments:

Figure 1: Location Map
Figure 2: Site Plan
Figure 3: Elevations (North/West)
Figure 4: Elevations (South/East)
Initial Study Checklist



Pescadero House

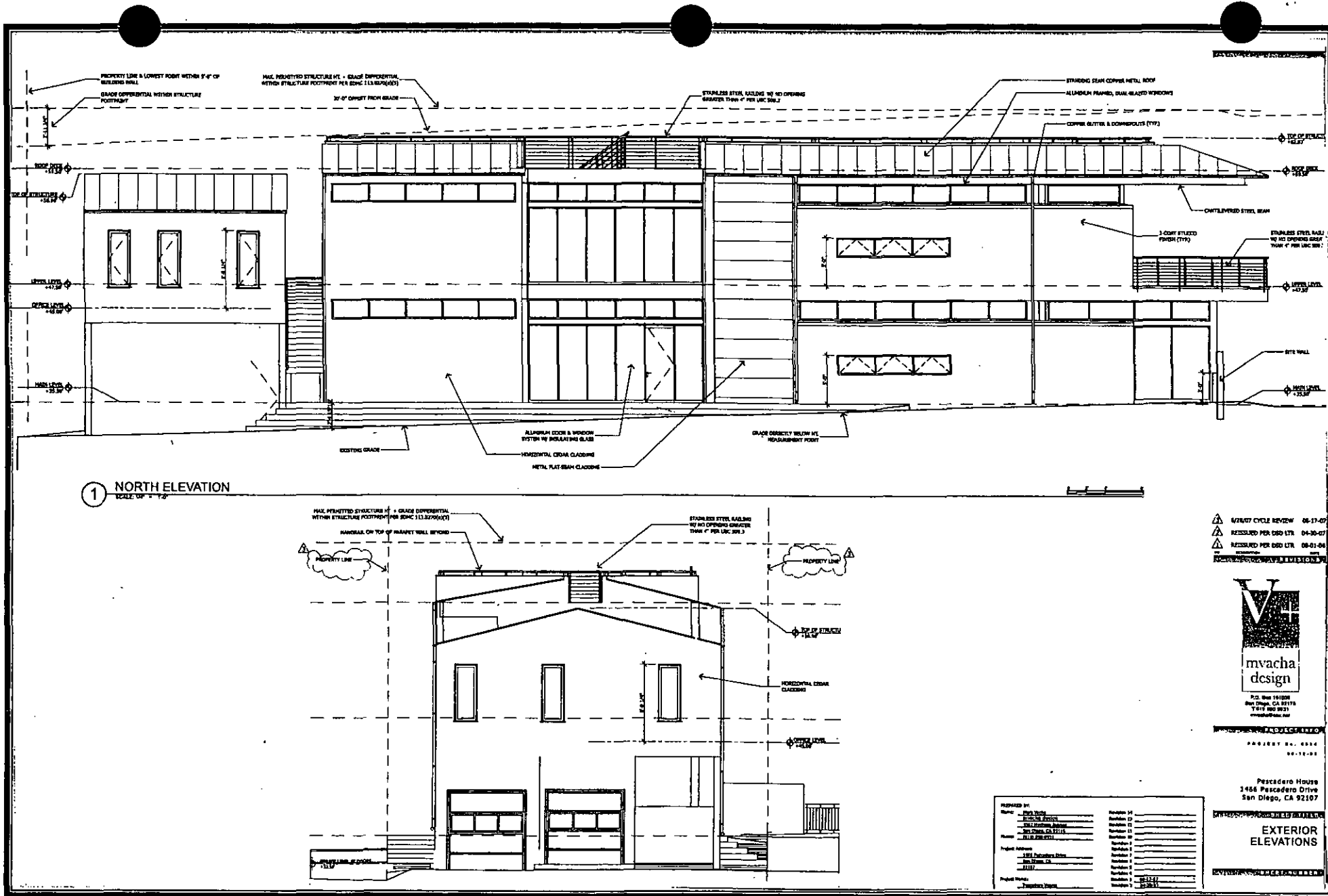


Location Map

Environmental Analysis Section Project No. 86511
CITY OF SAN DIEGO • DEVELOPMENT SERVICES

Figure

1



South/East Elevations

Environmental Analysis Section - Project No. 86511
CITY OF SAN DIEGO · DEVELOPMENT SERVICES

Figure

4

Initial Study Checklist

Date: 10/1/2007

Project No.: 86511

Name of Project: Pescadero House

III. ENVIRONMENTAL ANALYSIS

The purpose of the Initial Study is to identify the potential for significant environmental impacts which could be associated with a project pursuant to Section 15063 of the State CEQA Guidelines. In addition, the Initial Study provides the lead agency with information which forms the basis for deciding whether to prepare an Environmental Impact Report, Negative Declaration or Mitigated Negative Declaration. This Checklist provides a means to facilitate early environmental assessment. However, subsequent to this preliminary review, modifications to the project may mitigate adverse impacts. All answers of "yes" and "maybe" indicate that there is a potential for significant environmental impacts and these determinations are explained in Section IV of the Initial Study.

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
A. AESTHETICS / NEIGHBORHOOD CHARACTER			
<i>Will the proposal result in:</i>			
1. The obstruction of any vista or scenic view from a public viewing area?			<u>X</u>
<u>The project is required to observe a view corridor to be at least the width of the side yard setback. Within this setback, no landscaping that could grow higher than 3-feet in height would be allowed. As such, the project would not obstruct any vista or scenic view.</u>			
2. The creation of a negative aesthetic site or project?			<u>X</u>
<u>The project would comply with the development regulations of the underlying RM-2-4 Zone within the Ocean Beach Community Planning Area. Additionally, the project proposes minimal deviations for parking space width, a visibility area and a minimum driveway aisle width. See project description. These deviations would not result in a project with negative aesthetic features.</u>			

3. Project bulk, scale, materials, or style which would be incompatible with surrounding development?

X

See A. 2.

4. Substantial alteration to the existing character of the area?

X

The area provides for predominantly residential development and no single architectural theme (e.g. gaslamp, old town) exists. As such, project implementation would not substantially alter the character of the area.

5. The loss of any distinctive or landmark tree(s), or a stand of mature trees?

X

No such resources exist on-site.

6. Substantial change in topography or ground surface relief features?

X

The project grading would be minimal and would not impact any steep slopes. Therefore, no substantial change would occur.

7. The loss, covering or modification of any unique geologic or physical features such as a natural canyon, sandstone bluff, rock outcrop, or hillside with a slope in excess of 25 percent?

X

See A.-6.

8. Substantial light or glare?

X

All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the San Diego Municipal Code (SDMC). Exterior building treatments would not produce a substantial amount of light or glare.

9. Substantial shading of other properties?

X

The project would obey all height limitations and would not result in substantial shading of adjacent properties.

B. AGRICULTURE RESOURCES / NATURAL RESOURCES / MINERAL RESOURCES

Would the proposal result in:

1. The loss of availability of a known mineral resource (e.g., sand or gravel) that would be of value to the region and the residents of the state?

X

No such resources exist on-site.

2. The conversion of agricultural land to nonagricultural use or impairment of the agricultural productivity of agricultural land?

X

See B.1.

C. AIR QUALITY

Would the proposal:

1. Conflict with or obstruct implementation of the applicable air quality plan?

X

The proposed multi-family dwelling units would not conflict with applicable air quality plans.

2. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

X

See C.1.

3. Expose sensitive receptors to substantial pollutant concentrations?

X

The project does not propose a use that would qualify as a sensitive receptor under CEQA, nor does the project propose the handling or storage of hazardous materials.

4. Create objectionable odors affecting a substantial number of people?

X

See C-4.

5. Exceed 100 pounds per day of Particulate Matter 10 (dust)?

X

Project construction may temporarily create particulate matter (dust) through grading and demolition but would be minimized with standard construction practices (i.e. dewatering) to prevent and or reduce the release of excess particulate matter that would exceed Air Pollution Control District (APCD) standards.

6. Alter air movement in the area of the project?

X

Proposed development would not likely alter the air movement.

7. Cause a substantial alteration in moisture, or temperature, or any change in climate, either locally or regionally?

X

Proposed development would not affect or change the climate.

D. BIOLOGY

Would the proposal result in:

1. A reduction in the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals?

X

No such resources exist within the development footprint.

2. A substantial change in the diversity of any species of animals or plants?

X

See D.1.

3. Introduction of invasive species of plants into the area?

X

No invasive plants are proposed.

4. Interference with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors?

X

See D.1 The site is located in an urbanized area.

5. An impact to a sensitive habitat, including, but not limited to streamside vegetation, aquatic, riparian, oak woodland, coastal sage scrub or chaparral?

X

See D.1.

6. An impact on City, State, or federally regulated wetlands (including, but not limited to, coastal salt marsh, vernal pool, lagoon, coastal, etc.) through direct removal, filling, hydrological interruption or other means?

X

No such resources have been identified on-site.

7. Conflict with the provisions of the City's Multiple Species Conservation Program (MSCP) Subarea Plan or other approved local, regional or state habitat conservation plan?

X

The project site is not located in or adjacent to the Multi-

Habitat Planning Area and would not be in conflict with the City's MSCP Subarea Plan.

E. ENERGY

Would the proposal:

1. Result in the use of excessive amounts of fuel or energy (e.g. natural gas)?

Proposed development would not likely use a substantially excessive amount of fuel or energy as the project consists of 2 units.

X

2. Result in the use of excessive amounts of power?
See E.1.

X

F. GEOLOGY/SOILS

Would the proposal:

1. Expose people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards?

The property is mapped with a Geologic Hazard Rating of 43, which encompasses generally unstable coastal bluffs characterized by locally high erosion rates. See Geology discussion in the Initial Study.

X

2. Result in a substantial increase in wind or water erosion of soils, either on or off the site?

Minimal grading is proposed and site drainage would not substantially increase wind or water erosion of soils. Temporary and permanent Best Management Practices (BMPs) would be implemented. See Water Quality/Hydrology discussion.

X

3. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?
See F-1.

X

G. HISTORICAL RESOURCES

Would the proposal result in:

1. Alteration of or the destruction of a prehistoric or historic archaeological site?

The project site is disturbed. However, the site does lie

X

within an area considered a high sensitivity area for archaeological finds. As such, archaeological monitoring is required and included in Section V of the MND. Mitigation would reduce potential impact to below a level of significance.

2. Adverse physical or aesthetic effects to a prehistoric or historic building, structure, object, or site?

The project site does contain structures that are over 45 years in age; however, the structures do not qualify for the national, state or local historical criteria.

Furthermore, the structures do not possess any of the elements of integrity. See Historical Resources (Architecture) section for further discussion.

3. Adverse physical or aesthetic effects to an architecturally significant building, structure, or object?
See G.2.

4. Any impact to existing religious or sacred uses within the potential impact area?

No such uses are known to exist on-site.

5. The disturbance of any human remains, including those interred outside of formal cemeteries?

See G.1.

H. HUMAN HEALTH / PUBLIC SAFETY / HAZARDOUS MATERIALS

Would the proposal:

1. Create any known health hazard (excluding mental health)?

The project does not propose the creation or handling of hazardous materials.

2. Expose people or the environment to a significant hazard through the routine transport, use or disposal of hazardous materials?

The project site is not listed on the County's Department of Environmental Health's SAM listing or the state's Department of Toxic and Substances Control (DTSC). As such, project implementation would not result the exposure of people to health hazards.

3. Create a future risk of an explosion or the release of hazardous substances (including but not limited to gas, oil, pesticides, chemicals, radiation, or explosives)?

X

See H.1. Proposed uses would not likely carry, store, or handle such hazardous materials.

4. Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?

X

See H.1.

5. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or environment?

X

See H.2.

6. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

X

See H.1.

I. HYDROLOGY/WATER QUALITY

Would the proposal result in:

1. An increase in pollutant discharges, including down stream sedimentation, to receiving waters during or following construction? Consider water quality parameters such as temperature dissolved oxygen, turbidity and other typical storm water pollutants.
Due to the existing site conditions and drainage patterns, the applicant would be required to implement construction and post-construction Best Management Practices (BMPs) that would control potential downstream water quality impacts. See Water Quality/Hydrology discussion.

X

2. An increase in impervious surfaces and associated increased runoff?

X

See I.1. An incremental increase in runoff is expected. Any runoff would be appropriately treated with BMPs.

3. Substantial alteration to on- and off-site drainage patterns due to changes in runoff flow rates or volumes?

X

See I.1.

4. Discharge of identified pollutants to an already impaired water body (as listed on the Clean Water Act Section 303(b) list)?

See I-1.

X

5. A potentially significant adverse impact on ground water quality?

No such impacts are anticipated.

X

6. Cause or contribute to exceeding applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses?

The project would not likely adversely affect or cause or contribute to exceeding applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses.

X

J. LAND USE

Would the proposal result in:

1. A land use which is inconsistent with the adopted community plan land use designation for the site or conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over a project?

The proposed residential use would be consistent the underlying RM-2-4 Zone and within the Ocean Beach Community Plan.

X

2. A conflict with the goals, objectives and recommendations of the community plan in which it is located?

The project would comply with the goals and recommendations of the Ocean Beach Community Plan.

X

3. A conflict with adopted environmental plans, including applicable habitat conservation plans adopted for the purpose of avoiding or mitigating an environmental effect for the area?

See D.7. The project would not be in conflict with any such plans as no sensitive biological resources exist on-site.

X

4. Physically divide an established community?

The project would not divide an established community.

X

5. Land uses which are not compatible with aircraft accident potential as defined by an adopted airport Comprehensive Land Use Plan (CLUP)?

X

The site is not identified in or affected by any identified zones within a CLUP.

K. NOISE

Would the proposal result in:

1. A significant increase in the existing ambient noise levels?

X

Proposed uses would not increase ambient noise levels or be identified as a significant noise generator.

2. Exposure of people to noise levels which exceed the City's adopted noise ordinance?

X

See K.1.

3. Exposure of people to current or future transportation noise levels which exceed standards established in the Transportation Element of the General Plan or an adopted airport Comprehensive Land Use Plan?

X

See K-1.

L. PALEONTOLOGICAL RESOURCES

Would the proposal impact a unique paleontological resource or site or unique geologic feature?

X

The project proposes a minimal amount of grading, but exceeds the threshold for monitoring. As such, paleontological monitoring is required and included in Section V of the MND.

M. POPULATION AND HOUSING

Would the proposal:

1. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

X

The project would result in the demolition of two units. As such, no substantial change in population growth is expected.

2. Displace substantial numbers of existing housing, necessitating the construction of replacement housing

X

elsewhere?
See M.1.

N. PUBLIC SERVICES

Would the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:

_____ X

1. Fire protection?

_____ X

The project is located within an urbanized area and is currently served by police and fire services.

2. Police protection?

_____ X

See N.1.

3. Schools?

_____ X

No such impact is expected.

4. Parks or other recreational

_____ X

See N.3

5. Maintenance of public facilities, including roads?

_____ X

No such impact is expected.

6. Other governmental services?

_____ X

No such impact is expected.

O. RECREATIONAL RESOURCES

Would the proposal result in:

1. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

_____ X

The project would not be required to provide additional parks for the community.

2. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

_____ X

See O.1.

P. TRANSPORTATION/CIRCULATION

Would the proposal result in:

1. Traffic generation in excess of specific community plan allocation?

X

The project would result in minimal traffic generation.

2. An increase in projected traffic which is substantial in relation to the existing traffic load and capacity of the street system?

X

See P.1.

3. An increased demand for off-site parking?

X

The project is providing the required 5 off street parking spaces for the new proposed uses on-site.

4. Effects on existing parking?

X

See P.3. Adequate parking would be provided on-site.

5. Substantial impact upon existing or planned transportation systems?

X

See P.3.

6. Alterations to present circulation movements including effects on existing public access to beaches, parks, or other open space areas?

X

See P.1.

7. Increase in traffic hazards for motor vehicles, bicyclists or pedestrians due to a proposed, non-standard design feature (e.g., poor sight distance or driveway onto an access-restricted roadway)?

X

See P.1.

8. A conflict with adopted policies plans or programs supporting alternative transportation models (e.g., bus turnouts, bicycle racks)?

X

The development would be in conformance with above-mentioned policies, plans, or programs.

Q. UTILITIES

Would the proposal result in a need for new systems, or require substantial alterations to existing utilities, including:

1. Natural gas?

X

Services and the infrastructure are adequate for the proposed development.

2. Communications systems?

See Q.1.

X

3. Water?

See Q.1.

X

4. Sewer?

See Q.1.

X

5. Storm water drainage?

See Q.1.

X

6. Solid waste disposal?

See Q.1.

X

R. WATER CONSERVATION

Would the proposal result in:

1. Use of excessive amounts of water?

Services are adequate for the proposed development and would not likely require or use excessive amounts of water.

X

2. Landscaping which is predominantly non-drought resistant vegetation?

The project would comply with City's Landscape Standards.

X

S. MANDATORY FINDINGS OF SIGNIFICANCE

1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

No substantial change.

X

2. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief,

X

definitive period of time while long-term impacts would endure well into the future.)

No such impacts have been identified.

3. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)

No such cumulative impacts have been identified.

4. Does the project have environmental effects which would cause substantial adverse effects on human beings, either directly or indirectly?

No such impacts have been identified.

X

X

INITIAL STUDY CHECKLIST REFERENCES

A.	Aesthetics / Neighborhood Character
<u>X</u>	City of San Diego Progress Guide and General Plan.
<u>X</u>	Community Plan.
<u>X</u>	Local Coastal Plan.
B.	Agricultural Resources / Natural Resources / Mineral Resources
<u>X</u>	City of San Diego Progress Guide and General Plan.
	U.S. Department of Agriculture, Soil Survey - San Diego Area, California, Part I and II, 1973.
	California Department of Conservation - Division of Mines and Geology, Mineral Land Classification.
	Division of Mines and Geology, Special Report 153 - Significant Resources Maps.
C.	Air
<u>X</u>	California Clean Air Act Guidelines (Indirect Source Control Programs) 1990.
<u>X</u>	Regional Air Quality Strategies (RAQS) - APCD.
D.	Biology
<u>X</u>	City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997
<u>X</u>	City of San Diego, MSCP, "Vegetation Communities with Sensitive Species and Vernal Pools" maps, 1996.
<u>X</u>	City of San Diego, MSCP, "Multiple Habitat Planning Area" maps, 1997.
<u>X</u>	Community Plan - Resource Element.
<u>X</u>	California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered, Threatened, and Rare Plants of California," January 2001.
<u>X</u>	"State and Federally-listed Endangered and Threatened Animals of California," January 2001.
	City of San Diego Land Development Code Biology Guidelines.
	Site Specific Report:
E.	Energy (N/A).
	City Council Policy 900-14
	City Council Policy 600-27
F.	Geology/Soils
<u>X</u>	City of San Diego Seismic Safety Study.
	U.S. Department of Agriculture Soil Survey - San Diego Area, California, Part I and II, December 1973 and Part III, 1975.
<u>X</u>	Site Specific Report: <i>Geotechnical Investigation</i> , prepared by Christian Wheeler Engineering and dated February 9, 2007.

G.	Historical Resources
X	City of San Diego Historical Resources Guidelines.
X	City of San Diego Archaeology Library.
X	City of San Diego Historical Inventory of Historical Architects, Structures, and People in San Diego (<i>July 2000</i>)
X	Historical Resources Board List.
	Community Historical Survey:
	Site Specific Report: 1)
H.	Human Health / Public Safety / Hazardous Materials
X	San Diego County Hazardous Materials Environmental Assessment Listing, 1996.
X	San Diego County Hazardous Materials Management Division FAA Determination
X	State Assessment and Mitigation, Unauthorized Release Listing, Public Use Authorized 1995.
X	Airport Comprehensive Land Use Plan.
	City of San Diego Landscape Standards.
I.	Hydrology/Water Quality
X	Flood Insurance Rate Map (FIRM).
X	Federal Emergency Management Agency (FEMA), National Flood Insurance Program - Flood Boundary and Floodway Map.
X	Clean Water Act Section 303(b) list, dated May 19, 1999, http://www.swrcb.ca.gov/tmdl/303d_lists.html).
	City of San Diego Storm Water Standards.
	Site Specific Report:
	Site Specific Report:
J.	Land Use
X	City of San Diego Progress Guide and General Plan.
X	Community Plan.
	Airport Comprehensive Land Use Plan
X	City of San Diego Zoning Maps
	FAA Determination
X	City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997
K.	Noise
X	Community Plan
X	San Diego International Airport - Lindbergh Field CNEL Maps.
	Brown Field Airport Master Plan CNEL Maps.
	Marine Corps Air Station (MCAS) Miramar CNEL Maps.

	San Diego Association of Governments - San Diego Regional Average Weekday Traffic Volumes.
	San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG.
	City of San Diego Progress Guide and General Plan.
L.	Paleontological Resources
X	City of San Diego Paleontological Guidelines.
X	Thomas A., and Stephen L. Walsh, "Paleontological Resources City of San Diego," <u>Department of Paleontology San Diego Natural History Museum</u> , 1996.
X	Kennedy, Michael P., and Gary L. Peterson, "Geology of the San Diego Metropolitan Area, California. Del Mar, La Jolla, Point Loma, La Mesa, Poway, and SW 1/4 Escondido 7 1/2 Minute Quadrangles," <u>California Division of Mines and Geology Bulletin</u> 200, Sacramento, 1975.
	Kennedy, Michael P., and Siang S. Tan, "Geology of National City, Imperial Beach and Otay Mesa Quadrangles, Southern San Diego Metropolitan Area, California," Map Sheet 29, 1977.
	Site Specific Report
M.	Population / Housing
X	City of San Diego Progress Guide and General Plan.
X	Community Plan.
	Series 8 Population Forecasts, SANDAG.
N.	Public Services (N/A)
X	City of San Diego Progress Guide and General Plan.
X	Community Plan.
O.	Recreational Resources
X	City of San Diego Progress Guide and General Plan.
X	Community Plan.
X	Department of Park and Recreation
	City of San Diego - San Diego Regional Bicycling Map
P.	Transportation / Circulation
X	City of San Diego Progress Guide and General Plan.
X	Community Plan.
X	San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG.
X	San Diego Region Weekday Traffic Volumes, SANDAG.
	Caltrans Project Report (1989)
Q.	Utilities (N/A)

R.

X

Water Conservation

City of San Diego Landscape Standards, December 1997.

Sunset Magazine, New Western Garden Book. Rev. ed. Menlo Park, CA:

Sunset Magazine.

001581



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

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CITY CLERK'S OFFICE

Development Permit/ Environmental Determination Appeal Application

FORM

DS-3031

MARCH 2007

SAN DIEGO, CALIF.

SAN DIEGO, CALIF.

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Planning Commission
☒ Process Four Decision - Appeal to City Council
☒ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☐ Applicant ☐ Officially recognized Planning Committee ☒ "Interested Person" (Per M.C. Sec. 113.0103)

Name

Robert Arnes

Address

1459 Pescadero Drive

City

San Diego

State

CA

Zip Code

92107

Telephone

619-226-3408

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Daniel Smith, Mark Vacha and Michael Taylor

4. Project Information

Permit/Environmental Determination & Permit/Document No.:

MND#86511, CDP#274486, SDP#277639, PDP#524160

Date of Decision/Determination:

February 21, 2008

City Project Manager:

Patrick Hooper

Decision (describe the permit/approval decision):

Planning Commission approval of Project/86511 (Pescadero House), including certification of MND and approval of a CDP, SDP

and PDP.

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error (Process Three and Four decisions only)
☒ Conflict with other matters (Process Three and Four decisions only)
☒ Findings Not Supported (Process Three and Four decisions only)
☒ New Information (Process Three and Four decisions only)
☒ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

1) Environmental Review: The Mitigated Negative Declaration prepared for the project is insufficient, as there is substantial evidence project will have a number of significant negative impacts on the environment, mandating preparation of an Environmental Impact Report pursuant to the California Environmental Quality Act.

2) Factual Error: Statements and evidence relied upon by the Planning Commission when approving the project were inaccurate, including but not limited to the rate of bluff retreat at the site, the prior existence of a seawall at the site that precludes reduction of the required bluff setback and purpose of the Sensitive Coastal Bluff regulations.

3) New Information: We have uncovered new information that documents the high rate of retreat of the coastal bluff at the site.

4) Findings Not Supported: The required findings for the CDP, SDP and PDP are not supported by the evidence in the record.

5) Conflicts: The project conflicts with a number of policies, objectives and requirements of the Ocean Beach Community Plan, Local Coastal Plan, Land Development Code and Municipal Code.

6) Citywide Significance: The improper implementation of the sensitive bluff guidelines for this project are of Citywide significance.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: _____

Date: _____

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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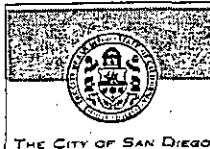
DS 3031 (03-07)

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AMENDMENT

Amendment



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Planning Commission
☒ Process Four Decision - Appeal to City Council

- ☒ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☐ Applicant ☐ Officially recognized Planning Committee ☒ "Interested Person" (Per M.C. Sec. 113.0103)

Name

ROBERT AMES

Address

1459 PESCADERO DR. SAN DIEGO, CA 92107 (619) 226-3408

3. Appellant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

DANIEL SMITH, MARK VACHA, MICHAEL TAYLOR

4. Project Information

Permit/Environmental Determination & Permit/Document No. PDP#1524160

Date of Decision/Determination: FEBRUARY 21, 2008

City Project Manager:

MND#86511, CDP#274486, SDP#277639

FEBRUARY 21, 2008

PATRICK HOOPER

Decision (describe the permit/approval decision):

PLANNING COMMISSION APPROVAL OF PROJECT #86511 (PESCADERO HOUSE)

INCLUDING CERTIFICATION OF MND AND APPROVAL OF A CDP, SDP AND PDP

5. Grounds for Appeal (Please check all that apply)

- ☐ Factual Error (Process Three and Four decisions only)
☒ Conflict with other matters (Process Three and Four decisions only)
☒ Findings Not Supported (Process Three and Four decisions only)

- ☒ New Information (Process Three and Four decisions only)
☒ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

SEE ATTACHMENT

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:

Robert Ames

Date:

4/3/08

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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DS-3031 (03-07)

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ATTACHMENT

- 1) Environmental Review: The Mitigated Negative Declaration prepared for the project is insufficient, as there is substantial evidence the project will have a number of significant negative impacts on the environment, mandating preparation of an Environmental Impact Report pursuant to the California Environmental Quality Act.
- 2) Factual Error: Statements and evidence relied upon by the Planning Commission when approving the project were inaccurate, including but not limited to the rate of bluff retreat at the site, the prior of a seawall at the site that precludes reduction of the required bluff setback and purpose of the Sensitive coastal Bluff regulations.
- 3) New Information: We have uncovered new information that documents the high rate of retreat of the coastal bluff at the site.
- 4) Findings Not Supported: The required findings for the CDP, SDP, and PDP are not supported by the evidence in the record.
- 5) Conflicts: The project conflicts with a number of policies, objectives and requirements of the Ocean Beach Community Plan, Local Coastal Plan, Land Development Code and Municipal Code.
- 6) Citywide Significance: The improper implementation of the sensitive bluff guidelines for this project are of Citywide Significance.

001585

SHIRLEY R. EDWARDS
CHIEF DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO
MICHAEL J. AGUIRRE
CITY ATTORNEY

CIVIL DIVISION
1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

March 21, 2008

Matthew Peterson, Esq.
Peterson & Price APC
655 W Broadway #1600
San Diego, CA 92101-3301

Dear Mr. Peterson:

*In Relation to the Appeal of Planning Commission Decision, Pescadero House –
Project No. 86511 – Missing Signature*

You have requested a letter confirming the City's determination to proceed with the processing of the appeal application challenging an earlier administrative decision to approve the Pescadero House project.

As background, the appellant, Robert Ames, filed the Pescadero House appeal application in person and paid the fees in full on March 4, 2008 in the Office of the City Clerk; however, the appeal form, although reviewed by City Clerk staff and deemed sufficient and complete for processing at that time, was not signed or dated. The appeal application was date stamped by the City Clerk's office upon receipt. Subsequent to this filing and within the appeal period, the appellant forwarded a copy of the application with all back up material to the City Clerk's office and specifically asked whether he was set. He was told that he was. It appears that a clerical error occurred in accepting the application on March 4th without requesting a signature and date.

The appeal of the Pescadero House project is an administrative appeal. The processing of this appeal will allow the City Council to determine in administrative hearing whether to uphold the prior administrative decision. In recognizing that the error was clerical in nature, the City has decided to proceed with the processing of this appeal application.

Based upon the authorities cited herein, an appeal is not invalid where the appeal was accepted for filing by the Clerk's Office within the allowable time period for filing an appeal. The omission of an original signature is a curable defect of form rather than a jurisdictional or substantive defect. In this instance, the appellant can cure the defect by filing an amendment to the appeal that is properly signed and dated. *See, United Farm Workers of America v.*

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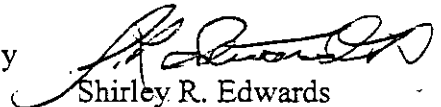
Agricultural Labor Relations Board (1985) 37 Cal. 3d 912, 915-919, quoting *Litzmann v. Workmen's Compensation Appeals Board* (1968) 266 Cal. App. 2d 203, at 205; and, *Board of Trustees of the Leland Stanford Junior University v. Superior Court of Santa Clara County (Umana)* (2007) 149 Cal. App. 4th 1154, 1163-1164, citing *United Farm Workers, supra*, and *Perlman v. Municipal Court* (1979) 99 Cal. App. 3d 568, 574-575. Failure to sign a complaint is considered an irregularity, rather than a "nullity," that may be cured by amendment. *Canadian Bank of Commerce v. Leale* (1910) 14 Cal. App. 307, 309; see also, *Vaccaro v. Kaiman* (1998) 63 Cal. App. 4th 761, 768-769, and *CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal. App. 4th 1141, 1149-1150.

Please do not hesitate to contact us if you have any additional questions.

Sincerely yours,

MICHAEL J. AGUIRRE, City Attorney

By


Shirley R. Edwards
Chief Deputy City Attorney

SRE:pev

cc: Elizabeth Maland, City Clerk ✓
Kelly Broughton, Development Services Director
Patrick Hooper, Development Project Manager
Robert Ames, 1459 Pescadero Drive, San Diego, CA 92107, Appellant

001587

EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: January 31, 2008 REPORT NO.: PC-08-015
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Development Services Department
SUBJECT: Pescadero House Appeal PTS Project Number: 86511
COUNCIL DISTRICT: Two
STAFF CONTACT: Patrick Hooper; (619) 557-7992; phooper@sandiego.gov

REQUESTED ACTION:

Appeal of the Planning Commission decision to approve the proposed demolition of four existing residential units and the construction of a new two unit residential development in the Ocean Beach Community.

STAFF RECOMMENDATION:

DENY the appeal and **CERTIFY** Mitigated Negative Declaration No. 86511, and **ADOPT** the Mitigation, Monitoring and Reporting Program; and **APPROVE** Coastal Development Permit No. 274486; and **APPROVE** Site Development Permit No. 277639; and **APPROVE** Planned Development Permit No. 524160.

EXECUTIVE SUMMARY:

The property is located at 1466 Pescadero Drive between Bermuda Avenue and Pescadero Avenue, on a bluff top site within the Ocean Beach community. The project site is a 0.17-acre parcel currently developed with two detached duplexes for a total of four residential units. A third, two-story 6-unit structure was located on the site but was damaged and removed due to a bluff failure in 1993. This application is requesting the demolition of the two remaining duplex units in order to replace them with a new two-story, two-unit building with subterranean parking. The building is structurally set back the required 40 feet from the bluff edge and utilizes a cantilever design so that 15 feet of the structure is within 25 feet of the bluff. All structural elements of the foundation and footings observe the 40 foot setback while the cantilever extends over, but not on or into the soil. Access is provided along the eastern portion of the property off of Pescadero Drive which functions as an alley. The site is surrounded by multi-family residential development to the east, north and south, and the Pacific Ocean to the west. The proposed development is consistent with the Ocean Beach Community Plan and the Land Development Code.

The Planning Commission approved the project after reviewing the application and listening to public testimony in favor and in opposition to the development. The decision to approve the project was appealed on March 4, 2008, asserting factual error, new information, conflict with other matters and citywide significance as the grounds for the appeal. The appeal also contends that the proposed development requires an Environmental Impact Report (Attachment 2).

The appeal states that the Mitigated Negative Declaration prepared for the project and certified by the Planning Commission is insufficient as there is substantial evidence that "the project will have significant negative impacts" however, the appeal does not identify what the impacts may be or where the MND is insufficient. The MND provides mitigation for paleontological and archeological resources through on site monitoring as well as water quality through Best Management practices. The appeal also states that there was factual error in regard to statements

and evidence provided to the Planning Commission concerning the rate of bluff erosion and the prior existence of a sea wall on the property. The appeal does not clarify what statement or evidence was erroneous nor does the appeal provide additional information establishing different erosion rates or documentation of a pre-existing seawall. The appeal states that new information has been uncovered which documents the high rate of bluff retreat at this site but does not provide the information or discuss what the rates are. A Geotechnical Report was prepared for the project and accepted by the City's Geology staff which established the rate of bluff erosion within acceptable limits for the development. The appeal states that the findings required to approve the project are not supported by the evidence in the record, that the project conflicts with a number of policies, objectives and requirements of the Ocean Beach Precise Plan and the Land Development Code and finally, the appeal states that the project would have citywide significance. However, the appeal does not indicate what findings cannot be supported, what policies or objectives are not being met and what the citywide significance would be.

Staff has determined that the project is consistent with the recommended land use, design guidelines, and development standards in effect for this site pursuant to the adopted Ocean Beach Precise Plan and Local Coastal Program Addendum, the applicable development regulations of the Land Development Code and the RM-2-4 Zone, and the City of San Diego Progress Guide and General Plan. Staff has determined that the proposed project is designed and engineered in a way that would not be detrimental to the coastal bluff and would be a visual enhancement to the surrounding area. Staff concludes that the deviations requested as a part of the project are minor in scope, are consistent with the purpose and intent of the regulations for which the deviations are requested and contribute to the overall project design.

FISCAL CONSIDERATIONS:

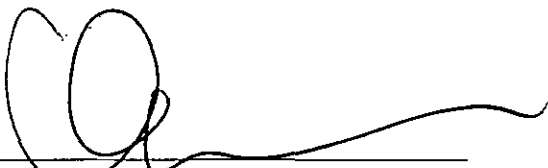
None. All costs associated with processing this application are paid for by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

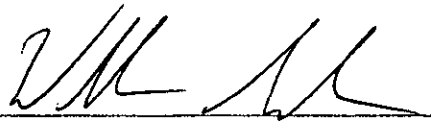
On February 21, 2008, the Planning Commission voted 5-1-1 to certify the environmental document and approve the project. On May 2, 2007, the Ocean Beach Community Planning Board voted 9-0-1 to approve the project (Michael Taylor recused as the project applicant).

KEY STAKEHOLDERS:

Daniel Smith, Property Owner.



Kelly Broughton
Director, Development Services Department



William Anderson
Deputy Chief Operating Officer:
Executive Director of City Planning
and Development

ATTACHMENTS:

1. Planning Commission Report No. PC-08-015
2. Appeal Application



001589

THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: January 31, 2008 **REPORT NO.** PC-08-015

ATTENTION: Planning Commission, Agenda of February 7, 2008

SUBJECT: PESCADERO HOUSE – PROJECT NO. 86511
Process Four

OWNER/ Daniel Smith
APPLICANTS: Mark Vacha and Michael Taylor

SUMMARY

Issue(s): Should the Planning Commission approve the demolition of four existing residential units in two detached duplexes and the construction of two new multi-family units in a 5,166 square-foot, two-story structure?

Staff Recommendation:

1. **CERTIFY** Mitigated Negative Declaration No. 86511, and **ADOPT** the Mitigation, Monitoring and Reporting Program; and
2. **APPROVE** Coastal Development Permit No. 274486; and
3. **APPROVE** Site Development Permit No. 277639; and
4. **APPROVE** Planned Development Permit No. 524160.

Community Planning Group Recommendation: On May 2, 2007, the Ocean Beach Community Planning Board voted 9-0-1 to approve the project (Michael Taylor recused as the project applicant). The motion to support the project was based on revised plans that reduced the bulk and scale of the development and the geological report that addressed the Planning Board concern from two previous meetings.

Environmental Review: Mitigated Negative Declaration No. 86511 has been prepared for the proposed development in accordance with the State of California Environmental Quality Act (CEQA) Guidelines and a Mitigation, Monitoring and Reporting Program has

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been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

Fiscal Impact Statement: None. All of the cost of processing the application is paid for by the property owner.

Code Enforcement Impact: None. No code violations are pending on this property.

Housing Impact Statement: The project proposes to demolish four detached single-story, duplex multi-family dwelling units and construct two, attached multi-family dwelling units on a .17-acre site. As such, the proposal would present a net loss of two dwelling units in the community. Also, this proposal would not be subject to Coastal Overlay Zone Affordable Housing Replacement Regulations because it does not involve demolition of a residential structure with three or more dwelling units. This project is subject to the City of San Diego Inclusionary Housing Ordinance.

BACKGROUND

The 0.17-acre project site is located at 1466 Pescadero Drive in the RM-2-4 zone, Coastal Overlay Zone (appealable area), Coastal Height Limit Overlay Zone, First Public Roadway, Beach Impact Parking Overlay Zone within the Ocean Beach Precise Plan and Local Coastal Program Land Use Plan. The site is located in the RM-2-4 zone (multiple unit residential zone) permitting one unit per 1,750-square-foot of lot area. The Ocean Beach Precise Plan designates this area for "Multi-Family" land use at a density of 25 du/ac. The Community Plan's recommended density is consistent with the RM-2-4 Zone.

The site is a relatively flat, 7,436-square-foot, irregular shaped lot, and is currently developed with a two single-story detached wood framed buildings which contains two small residential units each. A third, two-story 6-unit structure was located on the bluff but was damaged and removed due to a bluff failure in 1993. Access is provided along the eastern portion of the property off of Pescadero Drive which functions as an alley. This parcel is located between Bermuda Avenue to the south and Pescadero Avenue to the north, on a bluff top site in Ocean Beach. The site is surrounded by residential development to the east, north and south, and the Pacific Ocean to the west. The property is approximately 35 feet above mean sea level (AMSL) and the coastal bluff edge defines the property's western limits. The City has a public right-of-way for Ocean Boulevard in the bluff area, between the western property boundary and westward to the mean high tide line. This right-of-way was dedicated for Public use.

DISCUSSION

Project Description:

The project is proposing the demolition of the two existing single-story duplexes and the construction of a new two-story structure over subterranean parking. The new development would have a total of 5,166 square-foot of gross floor area and include two residential units with

The proposed development requires three discretionary entitlements including a Coastal Development Permit, a Site Development Permit and a Planned Development Permit. The Coastal Development Permit (CDP) is required for the demolition of the existing units and new construction within the Coastal Overlay Zone. The property is within the Coastal Commission's appeal area jurisdiction. The Site Development Permit (SDP) is required because the project includes environmentally sensitive lands in the form of coastal bluffs. Development within one hundred feet of the bluff edge requires the SDP and additional findings must be made to approve the development. The project requires a Planned Development Permit (PDP) because the application is requesting deviations to the development regulations of the Land Development Code. The PDP would allow the following deviations: (1) a deviation to allow a parking space width and length of 7.5' by 17' where 9.5' by 18' is required (2) a deviation to allow a visibility area of 11' where 20' is required and (3) a deviation to allow a minimum driveway aisle width of 9'11' where 12' is required. Transportation engineering staff has reviewed the requested deviations and determined them to be minor in scope. The deviations would permit parking and access in the basement level and the reduced visibility area is considered acceptable due to the narrow 20-foot street widths that tend to reduce vehicle speed. A parking space on the corner of the structure would be an open design to facilitate visibility in the area.

The proposed development employs a contemporary architectural style that is well articulated. The building has multiple open terraces and window transparencies. The bulk, scale and style of the building would be compatible with the Ocean Beach community.

The subterranean level of the structure would consist of three parking spaces, individual storage areas for each unit and an entry vestibule with an elevator and stairwell access. The ground level would include the lower dwelling unit and two off street parking spaces. One of the spaces would be within an enclosed garage and one space would be a covered carport. The lower unit would total 2,541 square-feet and include two bedrooms, two and one-half bathrooms and the associated living areas. The upper, second level unit would total 2,625 square-feet and consist of three bedrooms, three and one-half bathrooms and the associated living areas. Five off-street parking spaces are split between the lower level garage and the street level. All of the parking is accessed directly from Pescadero Drive which is a 20-foot wide named alley.

All new development is required to be in conformance with the Coastal Bluffs and Beaches Guidelines based on the Sensitive Coastal Bluffs and Environmentally Sensitive Lands regulations. The proposed development, typically, is required to be located at least forty-feet landward from the coastal bluff edge. In this particular case, due to the presence of the bluff the site is constrained and the proposed structure is proposed to be located less than 40 feet from the bluff edge (25 feet) however, all structural support would be located 40 feet from the bluff edge and founded into native materials. No seawall or other erosion prevention measures such as riprap are proposed as a part of this application.

Community Plan Analysis:

The project site is designated for multi-family residential in the Ocean Beach Precise Plan with a

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density yield of 25 dwelling units per net residential acre and is subject to the Proposition D thirty foot (30') height limit. The goal of the residential designation is to maintain the existing residential character of Ocean Beach as exemplified by a mixture of small-scale residential building types and styles. The project includes the demolition of two existing detached single-story duplexes and construction of two attached multi-family dwelling units in one 5,166 square foot building. The project proposes to construct two attached dwelling units on the 0.17-acre site will not have a detrimental impact on the community plan designation.

The project site is located on a coastal bluff between the ocean and the first public right-of-way. Surrounding uses include single and multi-family residential with structures extending two and three-stories in height. The proposed demolition and new construction would not adversely affect plan policy that, "Any proposals to develop adjacent to areas where erosion threats exist should be discouraged." The proposal observes a 25 foot building setback from the bluff edge and a 40-foot rear yard structural setback requirement of the Land Development Code designed to protect development of properties on coastal bluffs. The proposed structure foundation is located landward of the 40-foot bluff edge setback though the project includes a 15-foot cantilever seaward of the setback. Since the cantilevered portion of the structure extends over the set back area and will not be supported within the 40-foot setback zone, it was determined by review staff that it will not be subject to nor contribute to significant geologic instability seaward of the 40-foot setback zone. Review staff also considered the historical rate of erosion of the bluff face and determined that the project would not require a coastal protective device/seawall within that time span. The design of the proposal, with its contemporary architecture, fenestration and decks would implement policy in the Community Appearance and Design Element, "To upgrade the physical character of the community."

The Local Coastal Program (LCP) element of the Ocean Beach Precise Plan implements California Coastal Act policies for protection, enhancement and expansion of public visual and physical access to the shoreline. Although physical access points were identified in the community plan, no public view corridors were designated for this purpose when the plan was adopted. The proposal, by preserving open side yard setbacks would also implement the following LCP policy regarding visual access: "That views available from elevated areas and those adjacent to the beaches and ocean be preserved and enhanced wherever possible."

Environmental Analysis:

An environmental initial study prepared in accordance with the California Environmental Quality Act (CEQA) was conducted for the proposed development. Potential adverse impacts to water quality, geology, paleontology and archeology were identified and analyzed during the review process. Mitigated Negative Declaration No. 86511 has been prepared for the proposed development in accordance with the State of California Environmental Quality Act (CEQA) Guidelines and a Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

Historical Resources

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According to the City's Historical Resources Sensitivity Map, the site is located in an area with a high potential for subsurface archaeological resources. The project would export approximately 1,064 cubic-yards of cut at depths of up to 12-feet. Due to the quantity of cut and the potential to impact archeological finds on-site, archeological monitoring would be required during grading. In the event that such resources are discovered, excavation would be halted or diverted, to allow recovery, evaluation, and recordation of materials.

Paleontology

The project is located within the Bay Point Formation, which has a high potential for paleontological resources. The project proposes grading quantities of approximately 1,064 cubic yards of cut at depths of up to 12-feet. Due to the grading quantities and the high sensitivity formation, the project does have the potential to impact paleontological resources. As such, a Mitigation, Monitoring and Reporting Program, contained in Section V of the attached Mitigated Negative Declaration, would mitigate potentially significant impacts to paleontological resources to below a level of significance.

A Mitigated Negative Declaration No. 86511 has been prepared for this project in accordance with State CEQA guidelines, and a Mitigation, Monitoring and Reporting Program is required for Archaeological and Paleontological Resources to reduce any potential impacts to a level below significant.

Hydrology/Water Quality

Proper engineering controls and best management practices consisting of Site Design BMPs, Source Control BMPs, Priority Project Category BMPs and Structural Treatment Control BMPs in accordance with the San Diego Municipal Code Chapter 14, Article 2, Division 1 (Grading Regulations) and Division 2 (Storm Water Runoff Control and Drainage Regulations), and Chapter 4, Article 3, Division 3 (Stormwater Management and Discharge Control) would minimize water runoff and soil erosion during excavation/construction activities. Specifically, a condition has been added to the SDP that requires the applicant to incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1, prior to any construction permits being issued. Additionally, the applicant is conditioned to submit a Water Pollution Control Plan (WPCP) prior to any work being done on the site. The resultant discharge from the site would then be substantially free of pollutants and sediments to the maximum extent practicable. Therefore, permit issuance would preclude a significant impact to Water Quality/Hydrology and no mitigation is required.

Geology

In order to assess the geologic conditions of the site, a Geotechnical Investigation dated February 9, 2007 for 1466-1472 Pescadero Drive was prepared for the project and is summarized below. The project site is located within hazard category 43 which encompasses generally unstable coastal bluffs characterized by locally high erosion rates. The project would be conditioned to construct all of the foundation landward of the 40-foot coastal bluff edge setback. The project is proposing to cantilever the structure over the 40-foot coastal bluff edge setback. The foundation would be properly embedded into the competent native materials. The foundation would not be subject to failure due to the anticipated coastal erosion forces. Since the project would be conditioned to require any part of the foundation to be landward of the 40-foot coastal bluff edge, permit issuance would preclude a significant impact under CEQA and no mitigation is required.

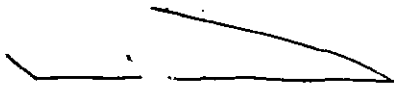
Conclusion:

Staff has reviewed the proposed development and determined the project is consistent with the recommended land use, design guidelines, and development standards in effect for this site pursuant to the adopted Ocean Beach Precise Plan and Local Coastal Program Addendum, the applicable development regulations of the Land Development Code and the RM-2-4 Zone, and the City of San Diego Progress Guide and General Plan. Staff has determined that the proposed project is designed and engineered in a way that would not be detrimental to the coastal bluff and would be a visual enhancement to the surrounding area. Staff concludes that the deviations requested as a part of the project are minor in scope and contribute to the overall project. Therefore, staff concludes that the applicable findings to approve the project can be affirmed in the positive and recommends the Planning Commission approve the project as conditioned.

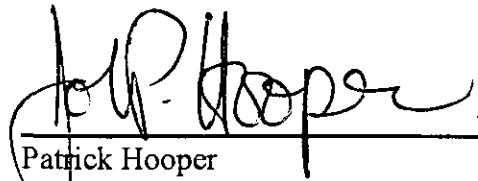
ALTERNATIVES:

1. **Approve** Coastal Development Permit No. 274486; Site Development Permit No. 277639 and Planned Development Permit No. 524160 **with modifications; or**
2. **Deny** Coastal Development Permit No. 274486; Site Development Permit No. 277639 and Planned Development Permit No. 524160, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



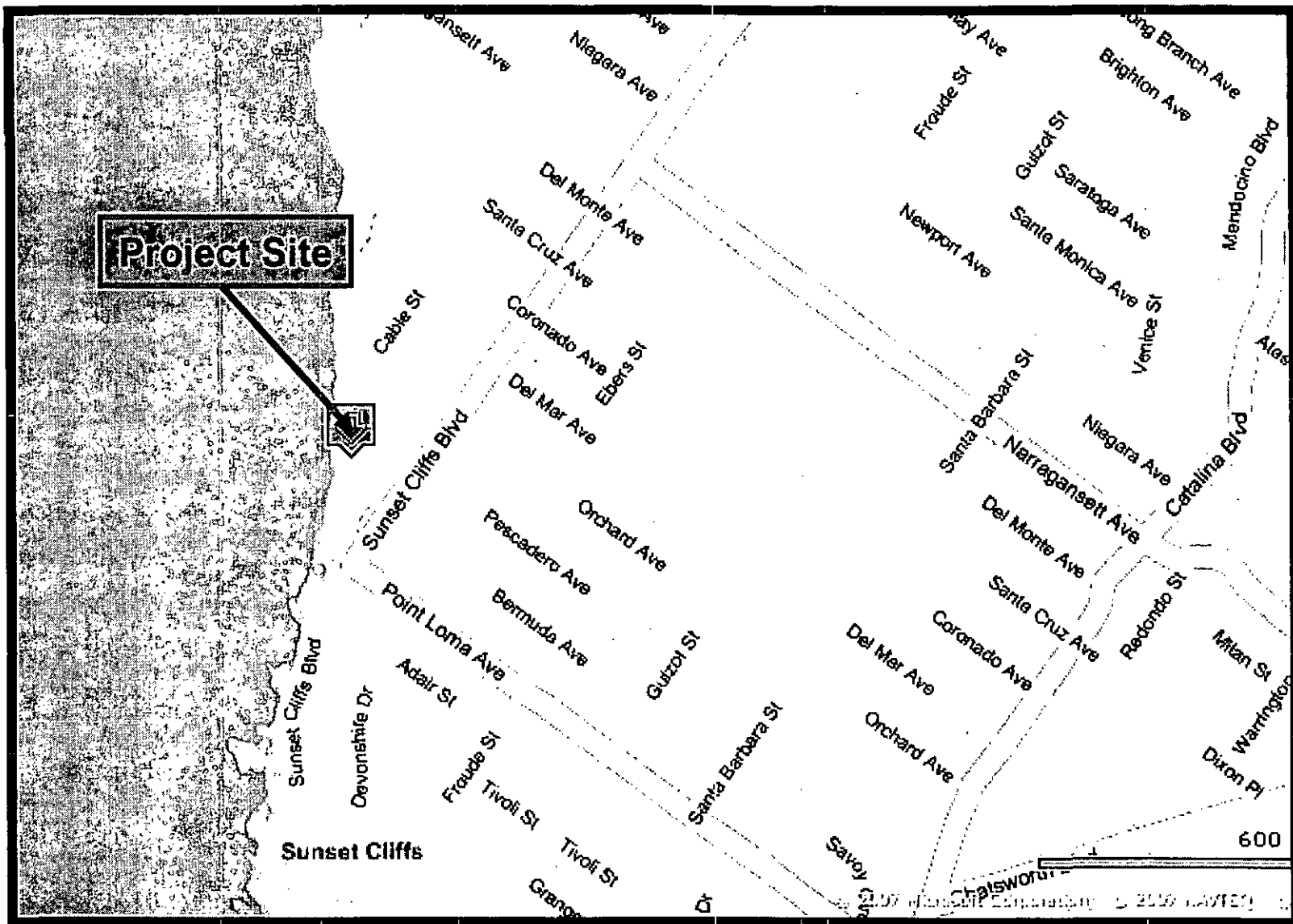
Mike Westlake
Program Manager
Development Services Department



Patrick Hooper
Project Manager
Development Services Department

Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Project Data Sheet
5. Project Site Plan
6. Project Plans
7. Draft Permit with Conditions
8. Draft Resolution with Findings
9. Community Planning Group Recommendation
10. Ownership Disclosure Form



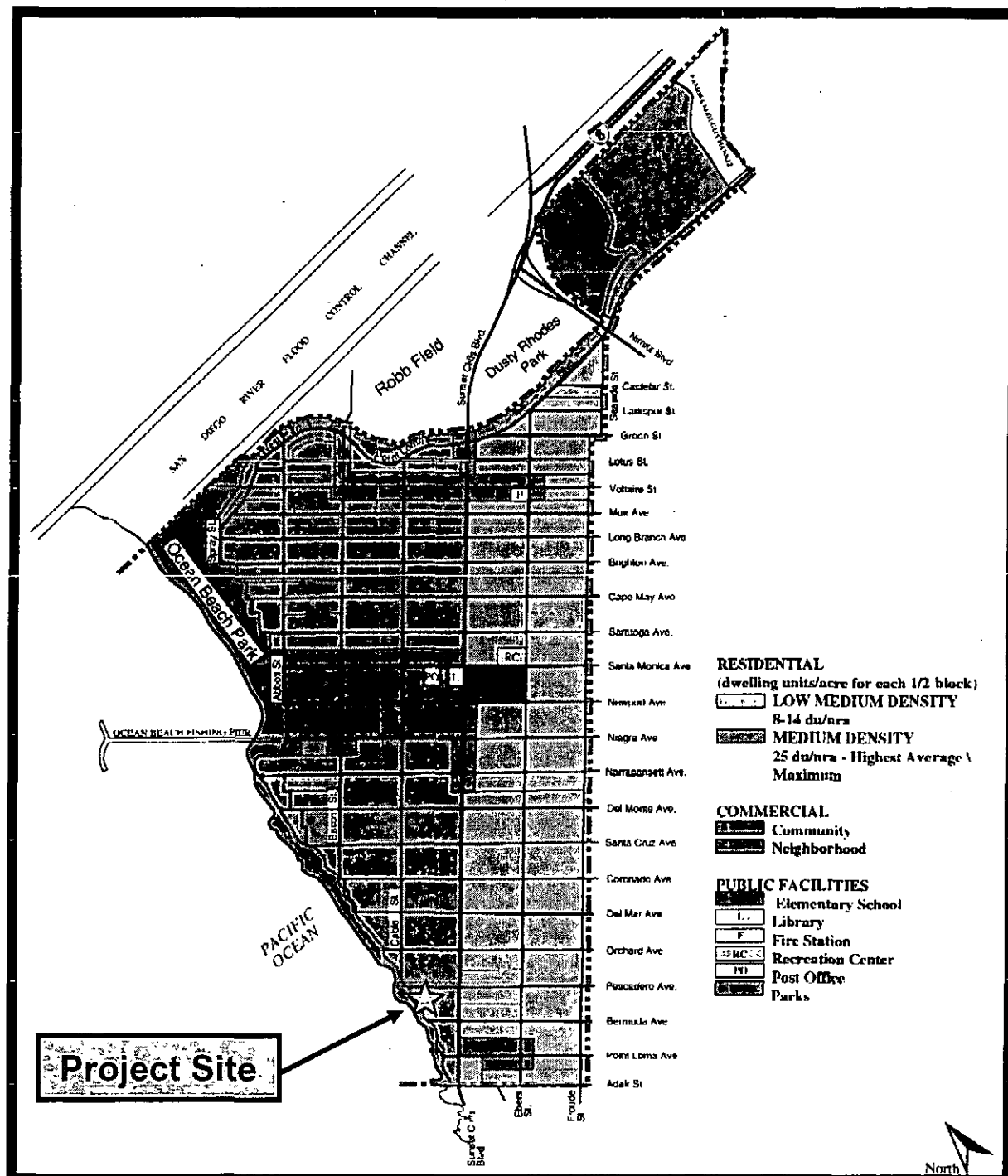
Project Location Map

PESCADERO HOUSE - PROJECT NUMBER 86511
1466 Pescadero Avenue



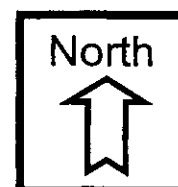
ATTACHMENT 1
Planning Commission Report
(with original attachments)

ATTACHMENT 2



Community Plan Land Use Map

PESCADERO HOUSE – PROJECT NUMBER 86511
1466 Pescadero Avenue





Aerial Photo

PESCADERO HOUSE – PROJECT NUMBER 86511

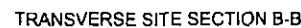
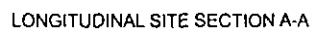
1466 Pescadero Avenue



C01601

PROJECT DATA SHEET

PROJECT NAME:	Pescadero House	
PROJECT DESCRIPTION:	Construction of a new, two-story two-unit development with below grade and street level parking garages.	
COMMUNITY PLAN AREA:	Ocean Beach	
DISCRETIONARY ACTIONS:	Coastal Development Permit, Site Development Permit, and Planned Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Multi-Family Residential (Allows residential development up to 25 dwelling units per acre).	
<u>ZONING INFORMATION:</u> ZONE: RM-2-4 (A multi-unit residential zone that permits 1 dwelling unit for each 1,750 square-feet of lot area) HEIGHT LIMIT: 30-Foot maximum height limit. (29 feet proposed) LOT SIZE: 6,000 square-foot minimum lot size. (7,430 square feet existing) FLOOR AREA RATIO: 0.70 maximum. (0.698 proposed) FRONT SETBACK: 20 feet. (40 feet proposed) SIDE SETBACK: 5 feet. (5 feet proposed) REAR SETBACK: 5 feet. (5 feet proposed) PARKING: 5 parking spaces required. (5 proposed)		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Multi-Family Residential; RM-2-4.	Multi-Family Residence
SOUTH:	Multi-Family Residential; RM-2-4.	Multi-Family Residence
EAST:	Multi-Family Residential; RM-2-4.	Multi-Family Residence
WEST:	Open Space; Coastal Bluff	Ocean Blvd. (Paper Street)
DEVIATIONS OR VARIANCES REQUESTED:	Deviations for reduced triangle of visibility, reduced parking stall dimension and reduced drive aisle width.	
COMMUNITY PLANNING GROUP	On May 2, 2007, the Ocean Beach Planning Board voted 9-0-1 to recommend approval of the proposed project.	



- 3 6/26/07 CYCLE REVIEW 06-17-07

- 2 REISSUED PER OSD LTR 04-30-01

- | NO | Ag. Acronym | DATE |
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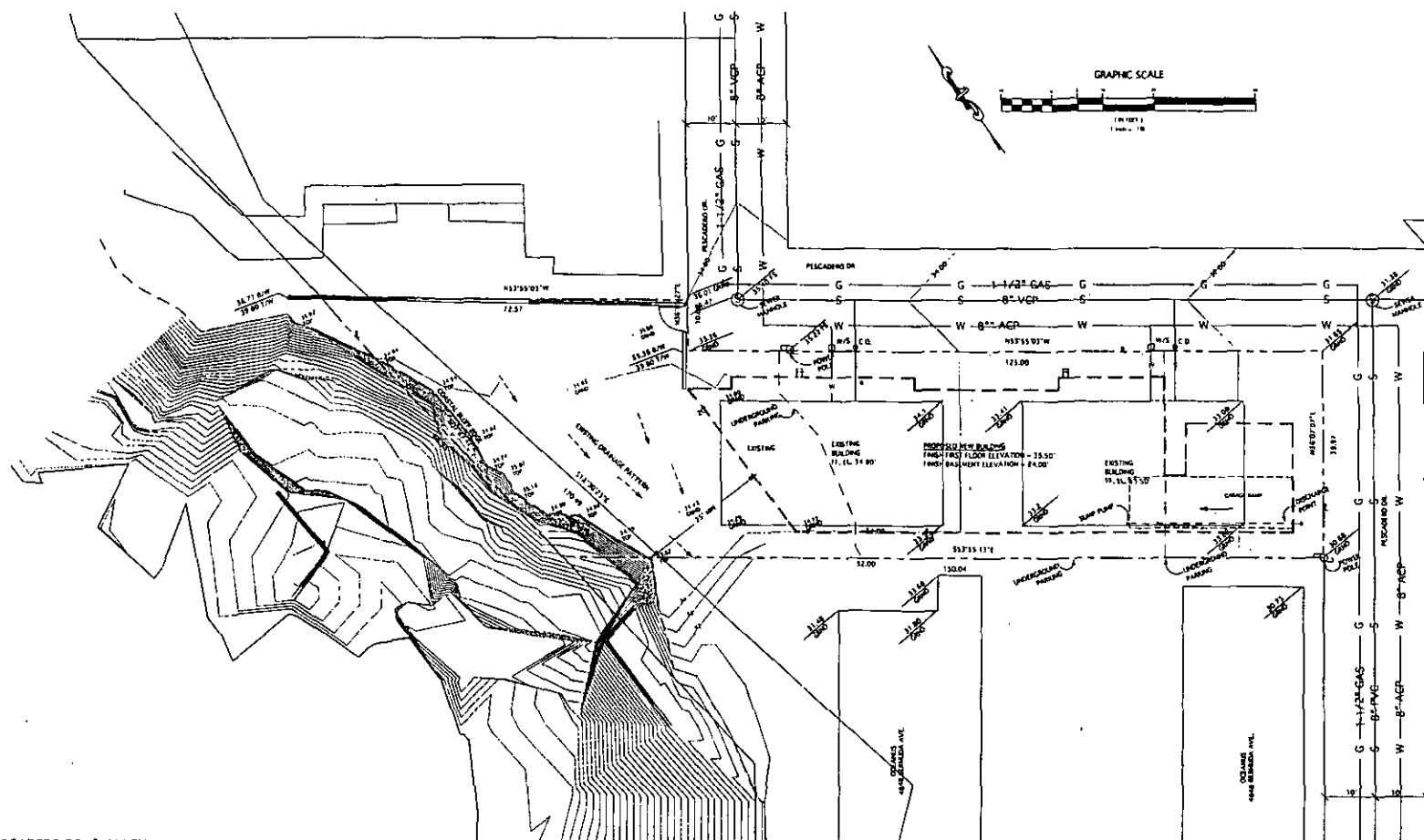
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ATTACHMENT 1
Planning Commission Report
(with original attachments)

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	1000000000	Revision 1.3
Phone	1000000000	Revision 1.4
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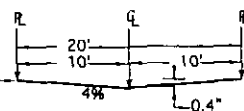
C01604



PESCADERO DR. & ALLEY

N.T.S.

PCC ALLEY PAVING FOR
STREETWAY G-21



LEGEND

- FG FINISH GRADE
- TOP TOP OF CURB
- ORNG EXIST SPOT ELEVATION
- FF EL. FINISH FLOOR ELEVATION
- DRAINAGE FLOW
- BUILDING PERIMETER
- PROPERTY LINE
- G GAS LINE
- S SEWER LINE
- W WATER LINE
- B HOUSE BUTTER DISCHARGE

CHARLES J. BANGLE
3025 STEVEN VILLAGE LANE, 13014
SAN DIEGO, CA 92108
619-246-7497
619-574-8811 (FAX)



PREPARED BY	DATE
DESIGNED BY	DATE
CHECKED BY	DATE
APPROVED BY	DATE
PROJECT NO.	DATE
PROJECT NAME	DATE
PROJECT LOCATION	DATE
PROJECT DESCRIPTION	DATE
PROJECT STATUS	DATE
PROJECT OWNER	DATE
PROJECT CONTACT	DATE
PROJECT ADDRESS	DATE
PROJECT PHONE	DATE
PROJECT FAX	DATE
PROJECT E-MAIL	DATE
PROJECT WEBSITE	DATE
PROJECT SOCIAL MEDIA	DATE
PROJECT OTHER	DATE

REVISIONS PER CDD LTR 08-17-07
REVISIONS PER CDD LTR 04-30-07
NEW SITE PER CDD LTR 08-01-06



P.O. Box 151025
San Diego, CA 92115
T 619 596 9921
mvacha@comcast.net

PROJECT NO. 0001

DATE 01-17-09

Pescadero House
1468 Pescadero Drive
San Diego, CA 92107

GRADING PLAN

THIS IS THE FINAL REVISION

C2.1

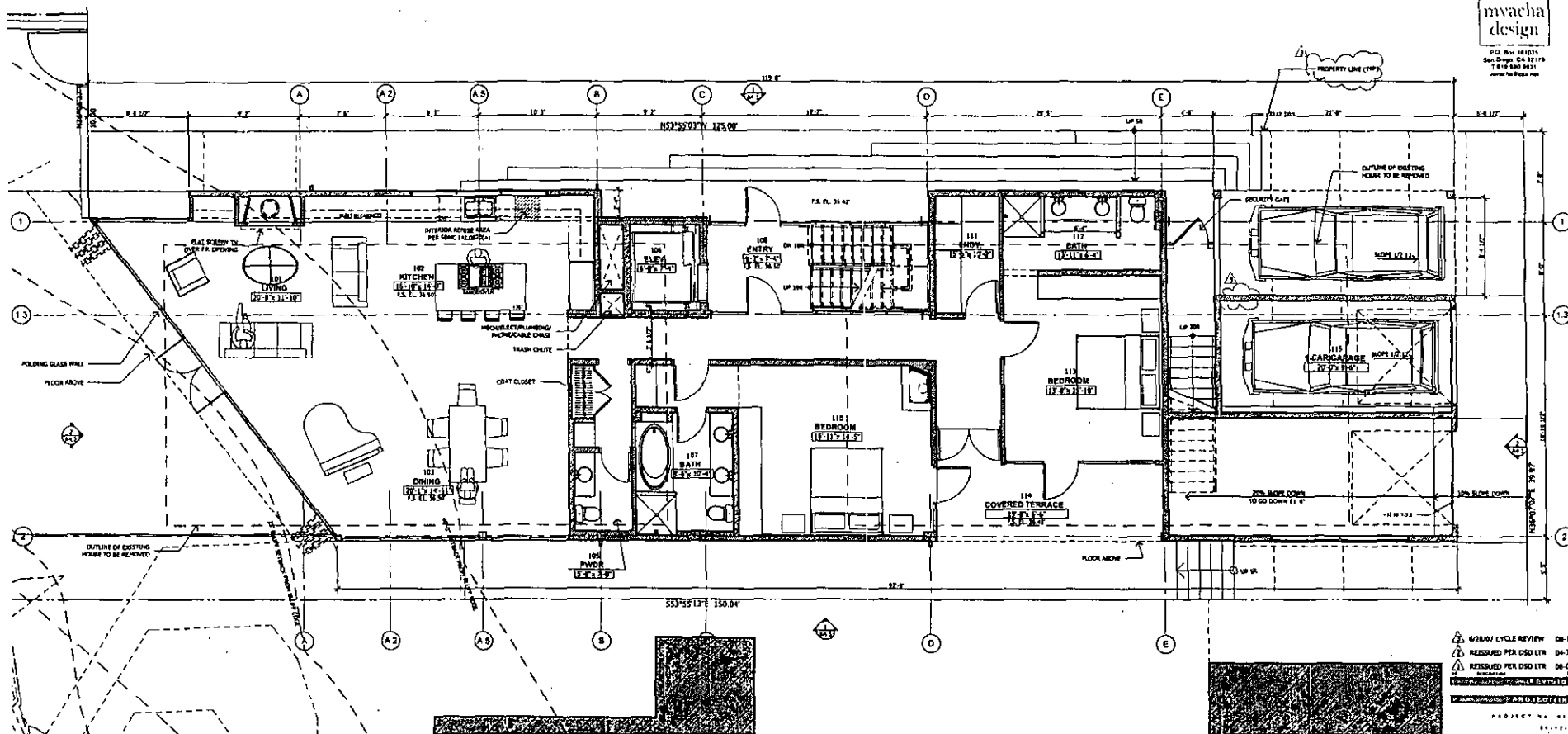


Registration #7	Black Stone	Registration 14	Registration 15
Name	CHUCK LARSEN	Registration 16	Registration 17
	1341 JAMES ST. #101	Registration 18	Registration 19
	San Jose, CA 95128	Registration 20	Registration 21
Phone	(415) 939-9371	Registration 22	Registration 23
		Registration 24	Registration 25
Shipping Address	1564 Piedmont Drive	Registration 26	Registration 27
	San Jose, CA	Registration 28	Registration 29
	95128	Registration 30	Registration 31
Shipping Name	THOMAS J. CHASE	Registration 32	Registration 33
		Registration 34	Registration 35
Ship Name	CHUCK LARSEN, CHUCK LARSEN	Registration 36	Registration 37
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		Registration 2	

C01606



P.O. Box 481025
San Diego, CA 92178
761-588-9631
www.mvachadesign.com



MAIN LEVEL FLOOR PLAN

SCALE: 1/4" = 1'-0"

4/28/17 CYCLE REVIEW 08-17-07

REDESIGNED PER CSD LTR 04-30-07

REDESIGNED PER CSD LTR 08-01-08

REDESIGNED PER CSD LTR 08-01-08

REDESIGNED PER CSD LTR 08-01-08

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REDESIGNED PER CSD LTR 08-01-08

REDESIGNED PER CSD LTR 08-01-08

DESIGNED BY	DATE	REVISION 14
DRAWN BY	DATE	REVISION 13
CHECKED BY	DATE	REVISION 12
APPROVED BY	DATE	REVISION 11
PROJECT NAME	DATE	REVISION 10
PROJECT NO.	DATE	REVISION 9
PROJECT DATE	DATE	REVISION 8
PROJECT LOCATION	DATE	REVISION 7
PROJECT OWNER	DATE	REVISION 6
PROJECT ARCHITECT	DATE	REVISION 5
PROJECT ENGINEER	DATE	REVISION 4
PROJECT LANDSCAPE	DATE	REVISION 3
PROJECT MECHANICAL	DATE	REVISION 2
PROJECT ELECTRICAL	DATE	REVISION 1
PROJECT PLUMBING	DATE	REVISION 0
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PROJECT FINISHES	DATE	REVISION -5
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PROJECT UTILITIES	DATE	REVISION -7
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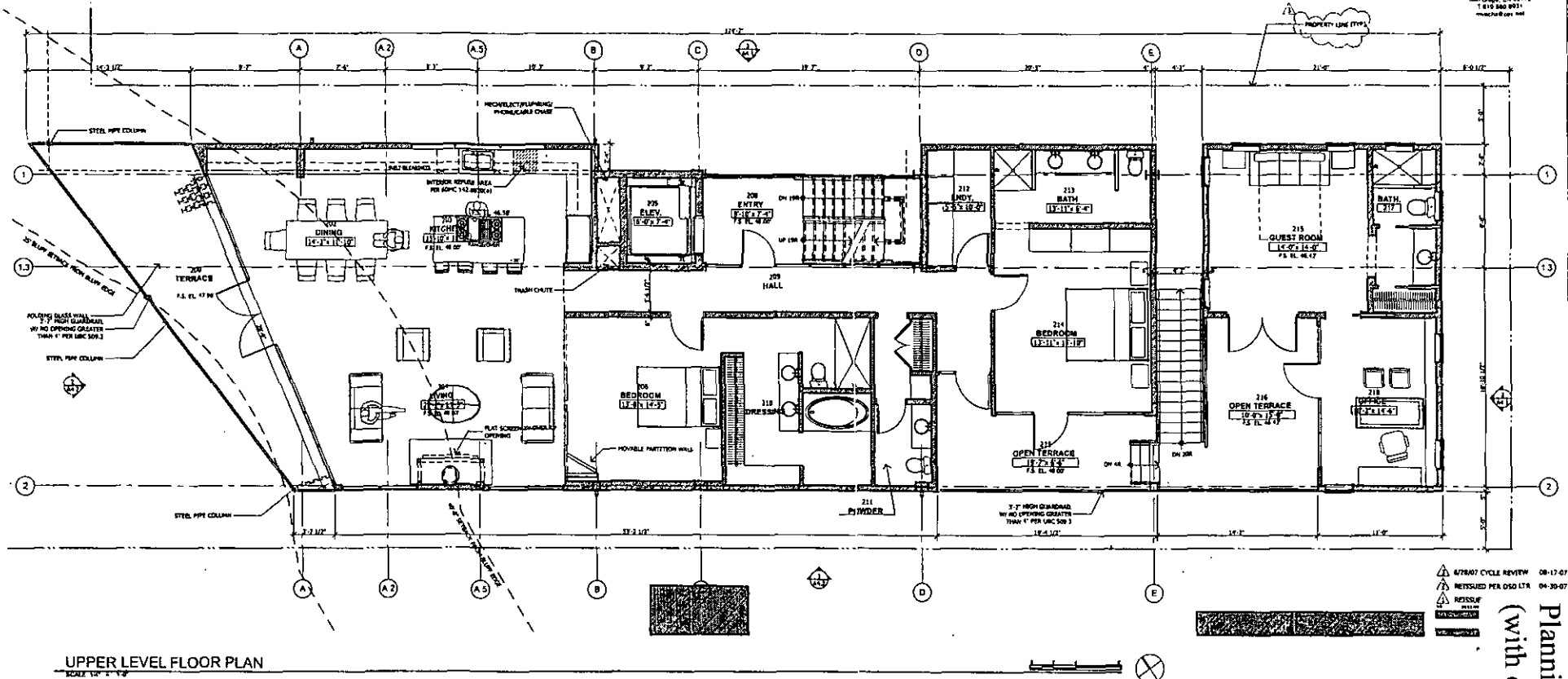
Pescadero House
1466 Pescadero Drive
San Diego, CA 92107

MAIN LEVEL FLOOR PLAN

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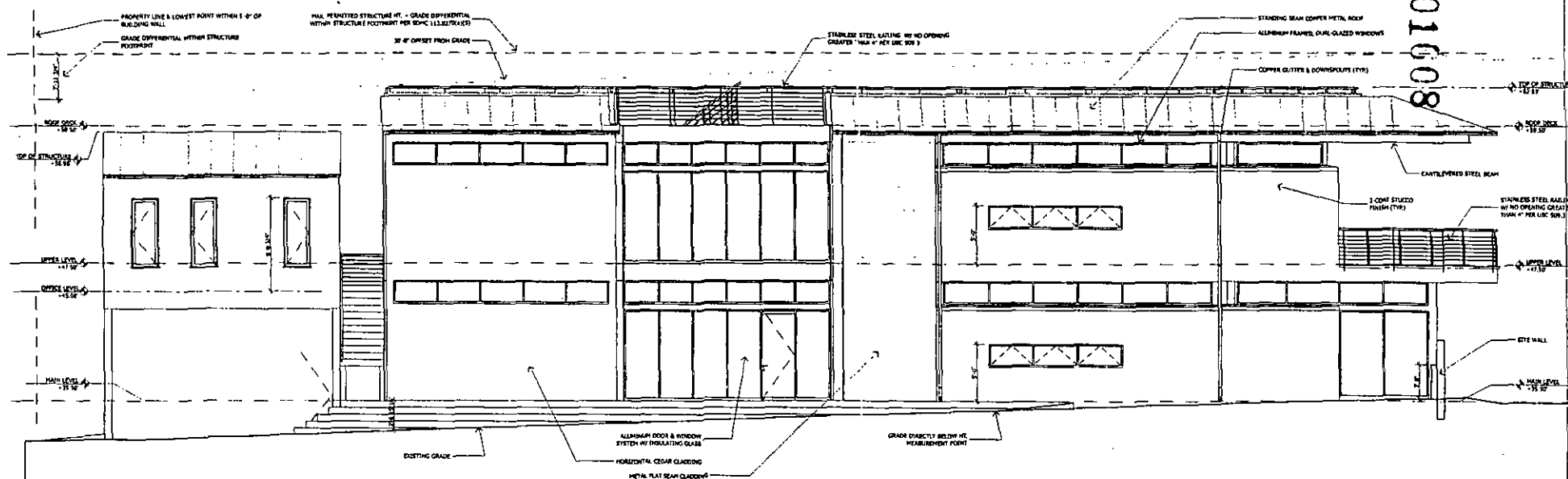
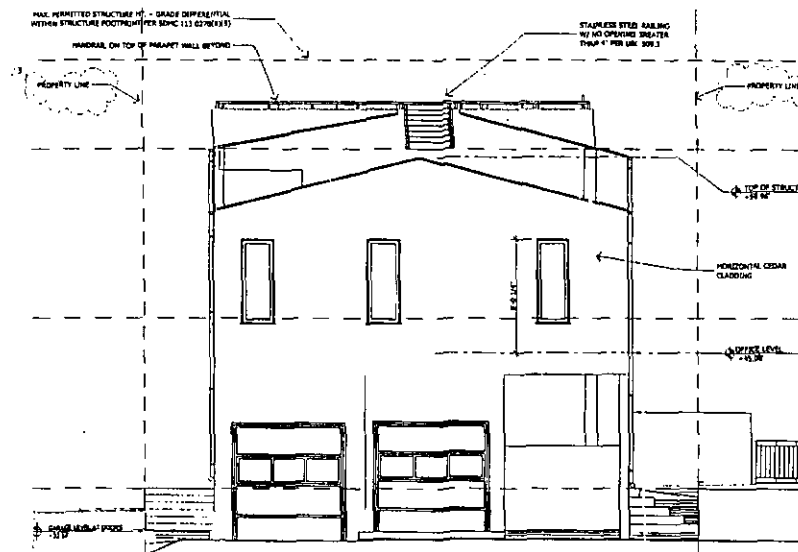
C01607

ATTACHMENT 6



APPROVED BY		REVISION 1	
DATE	08-17-07	REVISION 2	
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PROJECT NAME	1055 Rockledge Drive	REVISION 4	
PROJECT NUMBER	1055 Rockledge Drive	REVISION 5	
PROJECT DATE	08-17-07	REVISION 6	
PROJECT OWNER	1055 Rockledge Drive	REVISION 7	
PROJECT ARCHITECT	1055 Rockledge Drive	REVISION 8	
PROJECT ENGINEER	1055 Rockledge Drive	REVISION 9	
PROJECT LANDSCAPE	1055 Rockledge Drive	REVISION 10	
PROJECT MECHANICAL	1055 Rockledge Drive	REVISION 11	
PROJECT ELECTRICAL	1055 Rockledge Drive	REVISION 12	
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PROJECT SPECIALTIES	1055 Rockledge Drive	REVISION 15	
PROJECT OTHER	1055 Rockledge Drive	REVISION 16	
PROJECT TOTAL	1055 Rockledge Drive	REVISION 17	
PROJECT TOTAL	1055 Rockledge Drive	REVISION 18	
PROJECT TOTAL	1055 Rockledge Drive	REVISION 19	
PROJECT TOTAL	1055 Rockledge Drive	REVISION 20	

ATTACHMENT 1
Planning Commission Report
(with original attachments)

1 NORTH ELEVATION
SCALE: 1/4" = 1'-0"2 EAST ELEVATION
SCALE: 1/4" = 1'-0"

6/24/07 CYCLE REVIEW 06-17-07
 2. REISSUED PER OSD LTR 04-30-07
 3. REISSUED PER OSD LTR 08-01-08



mvacha
design

P.O. Box 18-025
 San Diego, CA 92178
 T 619 580 9937
 mvachadesign.com

PROJECT NO. 4564

06-12-06

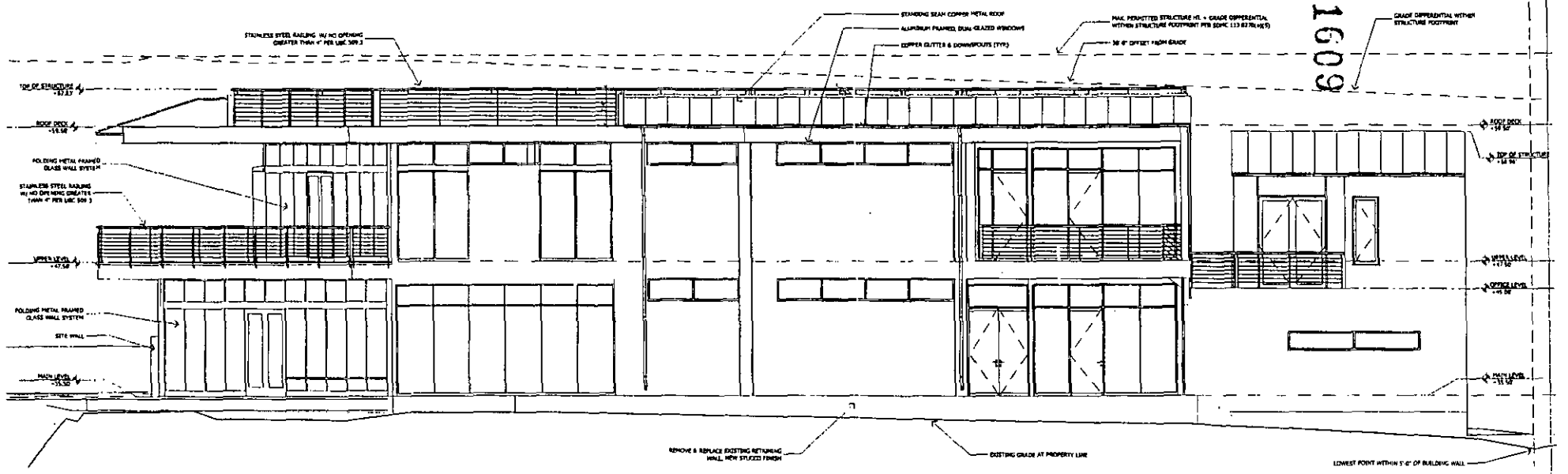
Pescadero House
 1466 Pescadero Drive
 San Diego, CA 92107

EXTERIOR ELEVATIONS

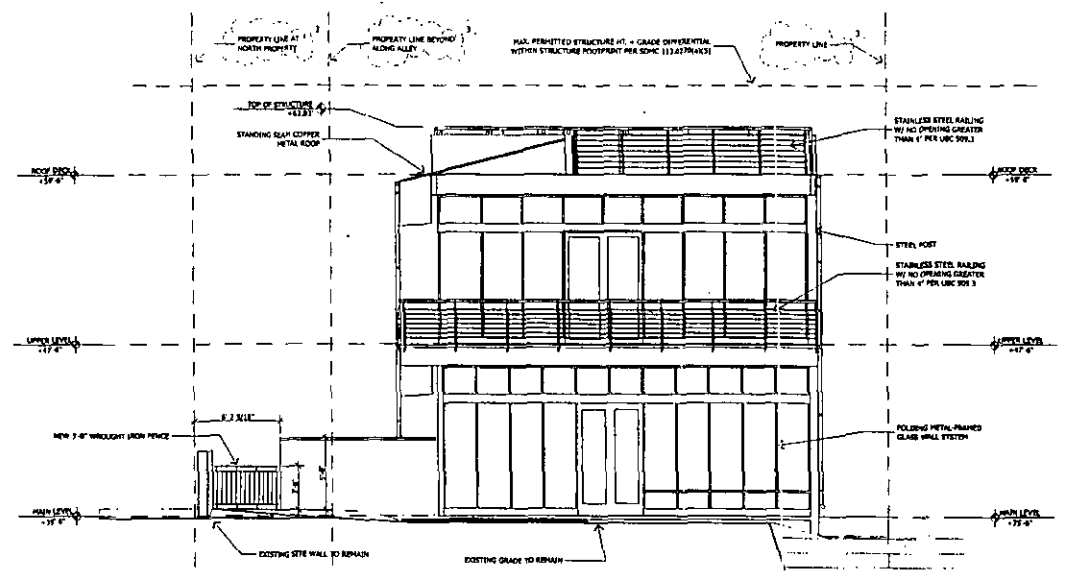
PREPARED BY	DATE	REVISION 1	DATE
Name: Mark Davis	06-12-06	Revision 2	06-12-06
Project: Pescadero House		Revision 3	06-12-06
Location: 1466 Pescadero Drive		Revision 4	06-12-06
City: San Diego, CA		Revision 5	06-12-06
State: CA		Revision 6	06-12-06
Country: USA		Revision 7	06-12-06
Project Name: Pescadero House		Revision 8	06-12-06
Client Name: Pescadero House		Revision 9	06-12-06
Design Date: 06-12-06		Revision 10	06-12-06
Scale: 1/4" = 1'-0"		Revision 11	06-12-06
Sheet Name: EXTERIOR ELEVATIONS		Revision 12	06-12-06
Sheet No: 11		Revision 13	06-12-06
Sheet Title: EXTERIOR ELEVATIONS		Revision 14	06-12-06

A4.1

001609



1 SOUTH ELEVATION
SCALE 1/4\"/>



2 WEST ELEVATION
SCALE 1/4\"/>

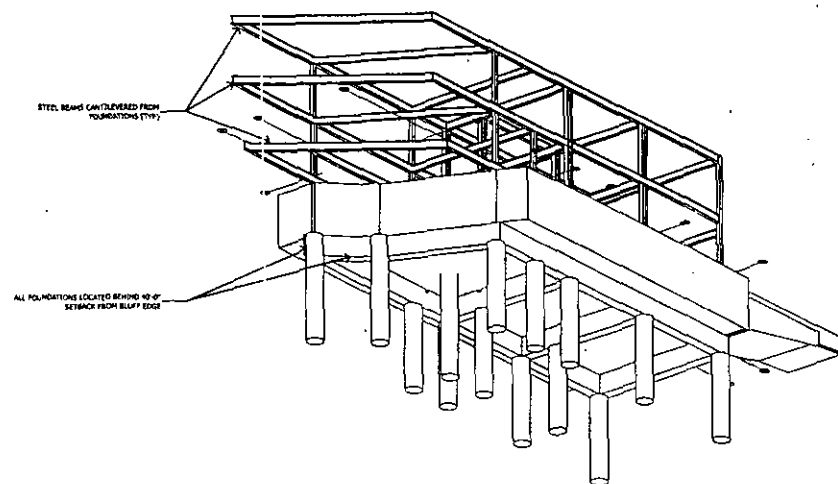
- 3 6/28/07 CYCLE REVIEW 08-17-07
- 2 REISSUED PER DSD LTR 04-30-07
- 1 REISSUED PER DSD LTR 08-01-06



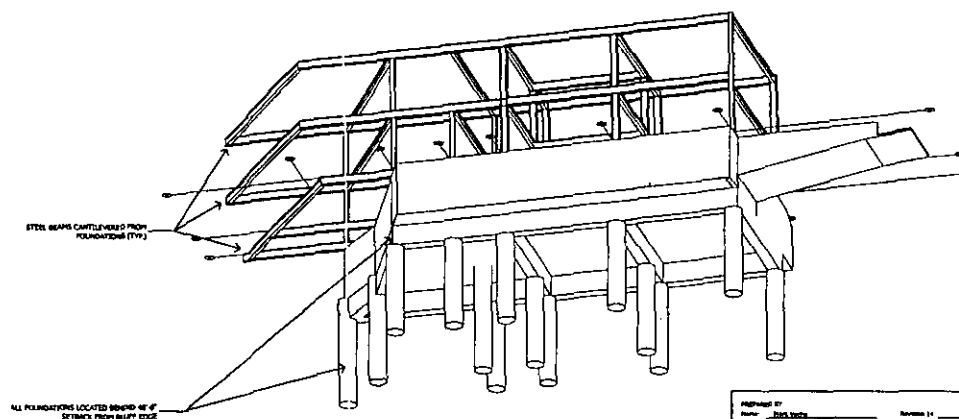
Prepared by:	Mark Smith	Reviewed by:	Mark Smith
Drawn by:	Mark Smith	Reviewed by:	Mark Smith
Project Name:	1555 Broadway Blvd	Reviewed by:	Mark Smith
Project Number:	001609	Reviewed by:	Mark Smith
Sheet Name:	Architectural	Reviewed by:	Mark Smith
Sheet Number:	18	Reviewed by:	Mark Smith

CO1610

ATTACHMENT 6



① STRUCTURAL AXONOMETRIC
NOT TO SCALE



② STRUCTURAL AXONOMETRIC
NOT TO SCALE

PREPARED BY:		Reviewed By:
Drawn By:	PROJECT ENGINEER	Reviewed By:
Checked By:	PROJECT ENGINEER	Reviewed By:
Project Name:	San Diego, CA 92107	Reviewed By:
Project Address:	1405 Pascadero Drive	Reviewed By:
Project City:	San Diego, CA 92107	Reviewed By:
Project State:	CA 92107	Reviewed By:
Project Zip:	92107	Reviewed By:
Sheet Name:	STRUCTURAL AXONOMETRIC	Reviewed By:
Sheet No.:	10 OF 11	Reviewed By:
Sheet Date:	08-17-07	Reviewed By:
Sheet Title:	STRUCTURAL AXONOMETRIC	Reviewed By:

NEW SHEET PER DSD LTR 08-17-07
REVISIONS



PROJECT NO. 0504

08-17-07

Pascadero House
1405 Pascadero Drive
San Diego, CA 92107

STRUCTURAL AXONOMETRIC

STRUCTURAL AXONOMETRIC

S1.1

ATTACHMENT 1
Planning Commission Report
(with original attachments)

[illegible]

001613

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

JOB ORDER NUMBER: 42-5429

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 274486
SITE DEVELOPMENT PERMIT NO. 277639
PLANNED DEVELOPMENT PERMIT NO. 524160
PLANNING COMMISSION

This Coastal Development Permit No. 274486; Site Development Permit No. 277639 and Planned Development Permit No. 524160 is granted by the Planning Commission of the City of San Diego to Daniel Smith, Owner, and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708, 126.0504 and 126.0604. The 0.17-acre site is located at 1466 Pescadero Drive in the RM-2-4 Zone, and includes the Coastal Overlay Zone (appealable), Sensitive Coastal Resource Overlay Zone, Coastal Height Limit Overlay Zone and Parking Impact Overlay Zone, within the Ocean Beach Precise Plan. The project site is legally described as Lot 7 and Lot 8, Block 44, Map of Ocean Beach being a subdivision of Pueblo Lots 195, 202 and 203, and that portion of Ocean Boulevard closed and vacated by resolution ordering work no. 103046, document 435927 on July 17, 1951

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to demolish two existing residential structures with two units each and construct two new residential units in a 5,566 square-foot, two-story structure with underground parking described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 7, 2008, on file in the Development Services Department.

The project shall include:

- a. The demolition of two existing duplex units and the construction of a new residential units in a 5,566 square-foot, two-story structure and associated underground and street level parking.
- b. PDP No. 524160 would allow the following deviations: (1) a deviation to allow a parking space width and length of 7.5' by 17' where 9.5' by 18' is required (2) a

- deviation to allow a visibility area of 11' where 20' is required and (3) a deviation to allow a minimum driveway aisle width of 9'11' where 12' is required
- c. Landscaping (planting, irrigation and landscape related improvements);
 - d. Off-street parking;
 - e. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
5. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

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7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
9. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.
11. Title Restrictions. Prior to the commencement of any work or activity authorized by this Permit, the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Director of the Development Services Department, or designated representative who shall provide: (a) that the applicant understands that no new accessory structures and landscape features customary and incidental to residential uses shall be developed within 5 feet of the Bluff Top (as illustrated on approved plan Exhibit "A," on file in the Development Services Department) or on the face of the Bluff; and (b) that the applicant understands that the site may be subject to extraordinary hazard from coastal bluff erosion and the applicant assumes the liability from such hazards; and (c) the applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project

13. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Mitigated Negative Declaration No. 86511, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 86511, satisfactory to the Development Services Department and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Historical (Archaeological Resources)
- Paleontological Resources

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

AFFORDABLE HOUSING REQUIREMENTS:

16. Prior to the issuance of any building permits, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

ENGINEERING REQUIREMENTS:

17. Prior to the issuance of any construction permit, the applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

18. Prior to the issuance of any construction permit the applicant shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

19. The drainage system proposed for this development is private and subject to approval by the City Engineer.

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20. Prior to foundation inspection, the applicant shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying that the pad elevation based on USGS datum is in accordance with the approved plans.

21. The foundation shall be constructed landward of the 40-foot coastal bluff edge setback. The project shall utilize cantilever the structure over the 40-foot coastal bluff edge setback. The foundation shall be properly embedded into the competent native materials.

22. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

23. The applicant shall provide and improve an 11 foot triangular area at the southwest corner of the two intersecting alleys, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

24. No fewer than five (5) off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

25. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

26. In accordance with the requirements of San Diego Municipal Code, Section 143.0142 the Owners/Permittees shall execute a covenant of easement recorded against title to the affected premises and executed in favor of the City.

27. The covenant of easement shall contain a description of the premises affected by the permit with a description of the development area and the environmentally sensitive lands that will be preserved.

28. The covenant of easement shall notice all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting the use of the environmentally sensitive lands covered by the permit.

29. The covenant of easement shall insure that the burdens of the covenant of easement shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected premises.

30. The covenant of easement shall ensure enforceability of the covenant of easement by the City.
31. Prior to the issuance of construction permits, the Owners/Permittees shall record a Deed Restriction preserving a visual corridor 5-feet wide running full length of property (North and South) in accordance with the requirements of the San Diego Municipal Code section 132.0403(b) and as described in exhibit "A" dated February 7, 2008.
32. Open fencing and landscaping may be permitted within this visual corridor, provided such improvements do not significantly obstruct public views of the ocean. Landscape within this visual corridor shall be planted and maintained not exceed 3'-0" in height in order to preserve public views.
33. No development shall be permitted on the coastal bluff face.
34. At grade accessory structures and landscape features customary and incidental to residential uses shall not be closer than five feet to the coastal bluff edge, in accordance with the requirements of the Land Development Code.
35. All drainage from the improvements on the premises shall be directed away from any coastal bluff and either into an existing or improved public storm drain system or onto a street developed with a gutter system or public right-of-way designated to carry surface drainage run-off. All drainage from unimproved areas shall be appropriately collected and discharge in order to reduce, control, or mitigate erosion of the coastal bluff.
36. The Owners/Permittees acknowledges that the existing bluff top improvements, including the gunite wall, are not permitted as part of this project. All portions of these improvements which can be removed without damage to the coastal bluff shall be removed prior to final inspection by the City. Any existing unpermitted bluff top improvements which cannot be removed due to the potential for bluff damage shall not be maintained and shall be allowed to deteriorate in order for the bluff area to be naturally restored over a period of time.
37. It shall be the responsibility of the Owners/Permittees to properly remove and dispose of any and all debris resulting from the natural erosion of any existing blufftop improvements that cannot be removed as a part of this project.
38. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

LANDSCAPE REQUIREMENTS

39. Prior to issuance of any construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial

conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

40. Prior to issuance of any grading permits for buildings, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.

41. Prior to issuance of any construction permits for buildings, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department.

42. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections.

43. The Permittee or Subsequent Owner shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

44. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Final Landscape Inspection.

45. The Permittee or Subsequent Owner shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat, shall not include exotic plant species that may be invasive to native habitats. Plant species found within the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory and the City of San Diego's Land Development Manual; Landscape Standards are prohibited.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on February 7, 2008,
pursuant to Planning Commission Resolution No. _____.

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ATTACHMENT 1
Planning Commission Report
(with original attachments)

Permit Type/PTS Approval No.:
Date of Approval:

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

NAME
TITLE

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1180 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

[NAME OF COMPANY]
Owner/Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

001623

PLANNING COMMISSION
RESOLUTION NO. (DRAFT)
COASTAL DEVELOPMENT PERMIT NO. 274486
SITE DEVELOPMENT PERMIT NO. 277639
PLANNED DEVELOPMENT PERMIT NO. 524160
PESCADERO HOUSE

WHEREAS, Daniel Smith, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish and existing multi-family residential structure and construct two new multi-family residential units (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No. 274486; Site Development Permit No. 277639 and Planned Development Permit No. 524160, on portions of a 0.17-acre parcel; and

WHEREAS, the Project site is located at 1466 Pescadero Drive in the RM-2-4 Zone, and includes the Coastal Overlay Zone (appealable), Sensitive Coastal Resource Overlay Zone, Coastal Height Limit Overlay Zone and Parking Impact Overlay Zone, within the Ocean Beach Precise Plan; and

WHEREAS, the Project site is legally described as Lot 7 and Lot 8, Block 44, Map of Ocean Beach being a subdivision of Pueblo Lots 195, 202 and 203, and that portion of Ocean Boulevard closed and vacated by resolution ordering work no. 103046, document 435927 on July 17, 1951; and

WHEREAS, on February 21, 2008, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 274486 and Site Development Permit No. 277639 and Planned Development Permit No. 524160 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated February 21, 2008:

FINDINGS:

A. Coastal Development Permit - Section 126.0708

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The subject property is not identified in the City's adopted Local Coastal Program (LCP) Land Use Plan as a public accessway. The site is privately owned and already developed. As such, the Project will not encroach upon any existing physical accessway legally utilized by the public. The Project site is a bluff top lot over the Pacific Ocean and surrounded on the remaining three sides by single and multi-family residential development. A 6-unit apartment Project previously existed on the site. In 1992, after a series of storms, and as a result of bluff failure, the most westerly 2-story Duplex was undermined and rendered unsafe. That 2-story apartment was removed by the previous owner in 1993. The partially eroded site was restored and the existing 4 units remain in place. All of the proposed development will be contained within the existing disturbed and previously developed and graded portions of the site. There is no existing physical access used legally or otherwise by the public, nor is there any public access identified in the Local Coastal Program. The Project is located in the appealable Coastal Overlay Zone requiring a Coastal Development Permit. The Project is within one hundred feet of the bluff edge therefore within the Sensitive Coastal Bluffs, requiring a Site Development Permit based on the Environmentally Sensitive Lands regulations. The Project site is developed with two existing duplex units with two residential units in each located near the Coastal Bluff above the Pacific Ocean along Sunset Cliffs. Adjacent land uses consist of residential to the north, east, and south, and a Coastal Bluff overlooking the Pacific Ocean to the west. Off-site, to the west of the bluff, the property descends down the approximately 35-foot high bluff to the ocean below. The City has a public right-of-way for Ocean Boulevard that encompasses the bluff area, between the western property boundary westward to the Mean High Tide Line. This right-of-way was dedicated for public use and allows limited public access along the lower bluff area and full access to the sandy beach area and rocky shoreline below the Project.

The Project proposes the demolition of the existing one story structures containing a total of four dwelling units and the construction of a new, two-story over partially subterranean parking. A portion of the building is 30 feet above grade however a majority of the proposed structure is 28.5 feet in height. The building conforms to the maximum 30 foot Coastal Height Limit allowed by the zone. The Project proposes to construct a two-story duplex with subterranean parking garage. The design of the condominiums and materials utilized for the roof, walls, windows, and trim are compatible with the neighborhood and consistent within the Ocean Beach Precise Plan ("The Precise Plan"). The Project will be compatible with the existing architectural character and scale of the neighborhood. The Project is surrounded by multi-family development that range from 25 feet to 30 feet tall.

The proposed development is located between the shoreline and the first public roadway; therefore views to the ocean must be preserved and where possible enhanced. The proposed development will adhere to the required yard area setbacks pursuant to the Land Development Code. A Deed Restriction is a condition of approval to preserve a visual corridor of not less than the side yard setbacks, in accordance with the requirements of San Diego Municipal Code Section 132.0403(b) to create new public views toward the ocean. All new fencing and gates within or adjacent to Pescadero Dr. and within northerly side yard setback would be restricted to

a maximum height of 6 feet. (3 feet solid base and 3 feet "open") in order to maintain and enhance pedestrian views toward the ocean.

The duplex has also been designed to respect all required front, side, street and rear yard setbacks. This serves to enhance and preserve views to and along the ocean from Pescadero Drive and other public vantage points.

Although not identified as a View Corridor, Pescadero Drive can provide limited views toward the ocean. The proposed duplex will not encroach into the existing view down Pescadero Drive. As designed, the project will not obstruct coastal or scenic views from any public vantage point and will preserve and enhance public views towards the ocean. Further, the project will not encroach upon any existing accessway legally utilized by the general public. There are no erosion control measures and no shoreline erosion control devices proposed as part of the project.

The proposed development also will not encroach upon any existing physical accessway legally utilized by the general public or any proposed public accessway identified in the adopted LCP Land Use Plan; nor will the project obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

The project has been designed so that the cantilevered portion of the structure would respect a 25 foot setback from the Coastal Bluff. This setback is consistent with the recommendations of the Christian Wheeler Engineering Geotechnical Investigation Report and Supplemental Report dated February 9, 2007 (collectively, "Geologic Reports"). The foundation of the duplex (hardened deep footing anchored 5 feet into Point Loma Formation and cretaceous bedrock) will be set back an additional 15 feet (respecting a 40 foot structural foundation setback) from the edge of the bluff. With this design the duplex will be landward of the adjacent multi-family apartment and condominium projects. The new project will also be landward of the previous 4-unit duplex project which is only 16 feet from the bluff edge. As such, this project will eliminate a bluff edge nonconforming structure.

No public access will be affected by this project. A new visual corridor is feasible and will be implemented to preserve, enhance or restore public views of the ocean or shoreline from the public street.

Therefore, the proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program Land Use Plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program Land Use Plan (also see CDP findings 2-4 and SDP and PDP findings below).

2. The proposed coastal development will not adversely affect environmentally Sensitive Lands.

The project requires a Site Development Permit based on the presence of Environmentally Sensitive Lands. The project proposes the demolition of an existing two-story structure

containing four dwelling units and the construction of a new, two-story over basement, duplex with subterranean level garages. No seawall or shoreline protective device exists on site and no shoreline protective device is requested. The City of San Diego conducted a complete environmental review of this site.

The proposed project is located on a developed manufactured bluff top lot located south of the Sunset Cliffs Bluff Stabilization Project and Engineered Rip Rap Shoreline Protection ("City/Army Corps Project") which is north of the subject site. The existing manufactured fill site will be excavated to accommodate the partially subterranean parking garage and the cantilevered duplex above.

As concluded in the Mitigated Negative Declaration (DEP 99-1073), no adverse unmitigated impacts to marine, paleontological, or archaeological resources are anticipated to occur as a result of project implementation.

The proposed development is located on a previously developed lot. Drainage from the developed portion of the site will be directed toward the street and away from the bluffs. This development does not propose to encroach into undisturbed areas. A Mitigated Negative Declaration was prepared for this Project in accordance with California Environmental Quality Act ("CEQA") Guidelines. The Mitigated Negative Declaration concluded that the proposed Project will not have a significant effect on the environment.

The existing 4-unit duplex has also not been found to be historically or architecturally significant. As indicated in the Mitigated Negative Declaration:

"The Project proposes to demolish structures that are 45 years in age or older. However, the structures do not possess integrity of design, architecture or workmanship. They are not representative examples of the small Craftsman style architecture that typifies the Ocean Beach Emerging Historic Cottage District. Additionally, the property is not listed in or determined to be eligible for listing in the California Register of Historical Resources. As such, the existing single-family homes are not historically significant. Therefore, project implementation would not result in a significant impact to a historical resource under CEQA and no mitigation is required."

There is no evidence in the record that the duplex has any historical or architectural significance. A Mitigated Negative Declaration No. 86511 has been prepared for this project in accordance with CEQA Guidelines, which preclude impact to these resources and Mitigation Monitoring and Reporting Program (MMRP) would be implemented to reduce potential historical resources (archaeology) and paleontological impacts to a level below significance. Mitigation in the form of on-site monitoring for archaeology and paleontology was required as the project is located in an area with a high potential for subsurface resources. A geological report was prepared for the project and determined the project, as redesigned with a cantilevered floor to provide a 40 foot setback from the bluff edge would not affect the Coastal Bluff. Additionally, Best Management Practices ("BMP") to ensure site drainage and run-off is directed away from the bluff. The project site is not located within or adjacent to the Multi-Habitat Planning Area (MHPA) of the

City's Multiple Species Conservation Program. The project site is located within an existing urbanized area. The proposed project was found to not have a significant effect on the environment. The proposed coastal development will not adversely affect Environmentally Sensitive Lands.

Therefore, the proposed development will not adversely affect identified marine resources, environmentally sensitive areas, historic, archaeological, or paleontological resources (also see CDP finding 1 above, 3 and 4 below, and SDP and PDP permit findings below).

3. The proposed coastal development is in conformity with the Certified Local Coastal Program Land Use Plan and complies with all regulations of the Certified Implementation Program.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The proposed project conforms to the Certified Local Coastal Land Use Plan. No public view to the water would be adversely affected by the approval of this project. Granting the deviations via a Planned Development Permit would not increase the scale or height of the overall structure. The project would not increase any public view impacts greater than a project without the requested deviations. The proposed development is located between the shoreline and the first public roadway, therefore public views to the ocean must be preserved. A visual corridor of not less than the side yard setbacks will be created and preserved to eliminate the impact of development along this coastal view area. The project meets the intent of the Guidelines for the Coastal Overlay and Coastal Height Limitation Overlay Zones. The proposed development would be consistent with the recommended residential density and multi-family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 Zone and comply with the applicable development regulations of the Land Development Code including deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

Therefore, the proposed development would be in conformity to the Certified Local Coastal Program Land Use Plan and comply with all regulations of the Certified Implementation Program

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four

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multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The subject property is located between the nearest public road and the sea or the shoreline of any body of water, and within the Coastal Overlay and Coastal Height Limit Zones.

No adjacent public parks or public recreational areas presently exist, were identified, or are anticipated for the area adjacent to and immediately surrounding the subject site. There is a public accessway that was built as part of the City/Army Corps Seawall and Shoreline Stabilization Project that is north of the site within Ocean Blvd. (Paper Street). There is also Engineered Rip Rap that was installed by the City/Army Corps north of the site. Public access to the walkway is from the foot of Orchard Ave. and also from Santa Cruz Ave. Although not identified as a public park or recreation area, the 25 ft. bluff edge setback of the cantilevered portion of the duplex will provide adequate buffer to protect such resources. Geotechnical Reports have been completed which analyzed stability of the site for the location of the existing and proposed improvements. Staff review and completion of a Mitigated Negative Declaration investigated the possible impacts to sensitive habitats and scenic resources and found that there are no adverse impacts associated with this proposed Project. Further, the Mitigated Negative Declaration did not identify any impacts to environmentally sensitive resources, sensitive habitat, or scenic resources. No impacts to these resources are anticipated to occur as a result of the residence. Dedicated public access to the beach and bluff area is available at the end of Orchard Avenue two blocks north of the Project and Bermuda Avenue two block south of the Project site. These access points allow public access along the beach and lower Coastal Bluff below the Project. The City has a public right-of-way for Ocean Boulevard in the bluff area between the western property boundary and the Mean High Tide Line. This right-of-way was dedicated for public use and allows public access along the lower bluff and beach area below the Project. Therefore, for every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

B. Findings for Site Development Permit Approval - Municipal Code Section 126.0504(a)

1. The proposed development will not adversely affect the applicable land use plan.

The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The project is within one hundred feet of the bluff edge therefore within the sensitive Coastal Bluffs, requiring a Site Development Permit based on the Environmentally Sensitive Lands regulations. The project is located in the appealable Coastal Overlay Zone requiring a Coastal Development Permit. The proposed development is located between the shoreline and the first public roadway; therefore views to the ocean shall be preserved. This Project is located in the RM-2-4 Zone. The RM-2-4 Zone permits a maximum density of 1 dwelling unit for each 1,750 square feet of lot

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area. The project is in conformance with the underlying zoning, and conforms to the required floor area ratio, parking and setbacks.

The height, scale, design and building materials incorporated into the duplex are consistent with the varied architecture, design and character of existing single and multi-family development in the surrounding area. Exterior finishes incorporate materials and colors consistent with recently built and remodeled homes and multi-family buildings in the vicinity and would be visually compatible with the varied design theme and character of the existing single and multi-family homes and apartments of the surrounding area and the development along Sunset Cliffs. This project will enhance the visual quality of the site and surrounding area, and will enhance public views to the ocean.

The project will be visually compatible with the surrounding neighborhood. This site is designated for multi-family development. The duplex has been designed to blend with the surrounding area which consists of one, two and three-story homes and multi-family apartments and condominiums. The project as designed is in conformance with the goals and objectives of the Community Plan, the Certified LCP, and the purpose and intent of the RM-2-4 Zone. The formally recognized Community Planning Group has recommended approval of the Project finding that it is consistent with the Precise Plan. The proposed development will be visually compatible with the character of the surrounding area, and where feasible, restores and enhances visual quality in visually degraded areas.

Minor deviations requested to accommodate parking and access including reduced parking stall dimensions, aisle width and visibility area can be granted with a Planned Development Permit. The proposed development will adhere to the required yard area setbacks pursuant to the Land Development Code. A Deed Restriction is a condition of approval to preserve a visual corridor of not less than the side yard setbacks, in accordance with the requirements of San Diego Municipal Code Section 132.0403(b). The building will be under the maximum 30 ft. Coastal Height Limit allowed by the Zone. The proposed development would be consistent with the recommended residential density and multi-family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 Zone and comply with the applicable development regulations of the Land Development Code including deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

Therefore, the proposed development would not adversely affect the applicable land use plan (also see CDP and PDP findings and SDP findings 2 and 3 below).

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The project requires a Site Development Permit based on the presence of Environmentally Sensitive Lands. The project proposes the demolition of an existing two-story structure containing three dwelling units and the construction of a new, three-story over basement, duplex with ground level garages. The City of San Diego conducted a complete environmental review of this site. A Mitigated Negative Declaration No. 86511 has been prepared for this project in

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accordance with CEQA Guidelines, which preclude impact to these resources and Mitigation Monitoring and Reporting Program (MMRP) would be implemented to reduce potential historical resources (archaeology) and paleontological impacts to a level below significance. Mitigation in the form of on-site monitoring for archaeology and paleontology was required as the project is located in an area with a high potential for subsurface resources. A geological report was prepared for the project and determined the project, as designed with a cantilevered floor to provide a 40 foot setback from the bluff edge would not adversely affect the Coastal Bluff. Additionally, Best Management Practices (BMP) to ensure site drainage and run-off is directed away from the bluff. The Project site is not located within or adjacent to the Multi-Habitat Planning Area (MHPA) of the City's Multiple Species Conservation Program. The project site is located within an existing urbanized area. The proposed project was found to not have a significant effect on the environment. The project would be designed and constructed pursuant to all applicable zoning and building codes and inspected for compliance with building standards.

Therefore, the proposed development would not be detrimental to public health, safety, and welfare (also see CDP and PDP findings and SDP findings 1 and 3).

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The proposed project conforms to the Certified Local Coastal Land Use Plan. No public view to the water would be adversely affected by the approval of this project. Granting the deviations via a Planned Development Permit would accommodate parking and access, including reduced parking stall dimensions, aisle width and visibility area and would not increase the potential scale or height of the overall structure. The project would not increase any public view impacts greater than a project without the requested deviations. The proposed development is located between the shoreline and the first public roadway, therefore public views to the ocean must be preserved. A visual corridor of not less than the side yard setbacks will be created and preserved to eliminate the impact of development along this coastal view area. The Project meets the intent of the guidelines for the Coastal Overlay and Coastal Height Limitation Overlay Zones. The proposed development would be consistent with the recommended residential density and multi-family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 Zone and comply with the applicable development regulations of the Land Development Code including deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

Therefore, the proposed development would comply with all applicable regulations of the Land Development Code.

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C. Supplemental Findings Environmentally Sensitive Lands for Site Development Permit Approval - Municipal Code Section 126.0504(b)

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to Environmentally Sensitive Lands.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The project requires a Site Development Permit based on the Environmentally Sensitive Lands regulations. The project is in compliance with the Environmentally Sensitive Lands guidelines, and proposes no deviations from those guidelines. The Environmentally Sensitive Lands guidelines are intended to assure that development protects the overall quality of the resources by determining the impacts and providing mitigation, if necessary. The project site is not located within or adjacent to the Multiple Habitat Planning Area (MHPA) of the City's Multiple Species Conservation Program (MSCP).

The proposed duplex will be located on an existing manufactured fill site. The project site has been previously graded. Since the entire site has been previously graded and padded and was previously developed with a 4-unit apartment project with the exception of the Coastal Bluff, no Sensitive Coastal Resources remain on the site. The project will not result in any adverse impacts upon sensitive coastal resources or other environmentally sensitive areas. A Mitigated Negative Declaration was prepared for this project. No significant unmitigated (adverse) impacts are anticipated to occur as a result of Project implementation.

The project has been designed so that the cantilevered portion of the structure would respect a 25 foot setback from the Coastal Bluff edge. This setback is consistent with the recommendations of the Geologic Reports. The foundation of the Duplex (hardened deep footing anchored 5 feet into Point Loma Formation and cretaceous bedrock) will be set back an additional 15 feet (respecting a 40 foot setback) from the edge of the bluff. With this design the duplex will be landward of the adjacent homes and the "string line" of development along this stretch of Sunset Cliffs. The project will also be landward of the previous 4- unit apartment project that was on the site. The existing nonconforming (Coastal Bluff Edge Setback) 4-unit duplex project will be removed.

All drainage will be directed into a private storm drain system and directed back to the public right-of-way and public storm drain systems. As such, there will be no adverse impacts to environmentally sensitive areas or sensitive coastal resources. Since the proposed project is a duplex located on the top of a man-made bluff and the structural foundation system will respect a 40 foot bluff edge setback, there will not be any impacts to the Coastal Bluff or the shoreline sand supply. A geologic study of the Coastal Bluff, the site, and Coastal Bluff stability calculations and analysis were performed (see the Geologic Reports). The Geologic Reports conclude that the proposed project would not adversely impact the stability of the site or the

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Coastal Bluff, nor would the proposed project result in exacerbated Coastal Bluff retreat. Municipal Code Section 143.0143 indicates that a bluff edge setback may be less than 40 feet, but in no case less than 25 feet where the evidence is contained in the Geology Report indicates that (1) the site is stable enough to support the development with the proposed bluff edge setback, and (2) that the project can be designed so that it will neither be subject to, nor contribute to, significant geologic instability throughout the anticipated life span of the principal structures. The site has been determined to be stable at the 25 foot to 26 foot setback and the Project has been determined not to contribute to or be subjected to geologic instability during the 75-year anticipated life of the structure.

The project complies with all of the supplemental restrictions of Municipal Code Section 143.0143 et. seq. The geological, bluff stability, erosion rate studies, and factor of safety calculations conclude that the site is stable to support the development with a 25 foot to 26 foot Coastal Bluff edge setback for new improvements. While the Project could be built at the 25 foot to 26 foot Coastal Bluff edge setback, the design places all structural foundations at the 40 foot setback. This is much more conservative than what is recommended by the various studies.

Since the cantilevered portion of the duplex has been sited to respect a 25 foot bluff edge setback and the foundation systems will be set back 40 feet from the bluff edge, the project will not impact any sensitive coastal resources or environmentally sensitive areas.

The City of San Diego conducted a complete environmental and geotechnical review of this site. A Mitigated Negative Declaration has been prepared for this project in accordance with CEQA Guidelines, which concludes that there will not be any impact to these resources. A geotechnical analysis was prepared to address the bluff stability, shoreline erosion, rising sea levels and factor of safety analysis. These studies concluded that the bluff will support the proposed improvements and is considered stable with regard to potential erosion and slope failure.

Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to Environmentally Sensitive Lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking.

“Natural” landforms will not be altered. New construction will occur within the existing disturbed site. A geological study of the Coastal Bluff, the site, and Coastal Bluff stability calculations and factor of safety analysis were performed (see the Geologic Reports). The Geologic Reports conclude that the proposed project would not adversely impact the stability of the site or the Coastal Bluff, nor would the proposed project result in exacerbated Coastal Bluff

retreat. Municipal Code Section 143.0143 indicates that a bluff edge setback may be less than 40 feet but in no case less than 25 feet, where the evidence is contained in the Geology Report indicates that (1) the site is stable enough to support the development with the proposed bluff edge setback, and (2) that the project can be designed so that it will neither contribute to, nor subject to, significant geologic instability throughout the anticipated life span of the principal structures. The Geologic Reports, coastal erosion rates (including an analysis of rising sea levels), bluff stability analysis, and factor of safety studies all conclude that the site is stable to support the proposed project with a bluff edge setback of 25 feet to 26 feet for new improvements. However, the project has been designed so that all of the foundation and load bearings for the project will be set back 40 feet from the Coastal Bluff edge. As such, a 25 foot setback for the proposed cantilevered portion of the structure with a 40 foot setback for the proposed structural foundation system is appropriate. All construction will be contained within the disturbed site. The project site is not located within the FW (Floodway) or FPF (Floodplain Fringe) Zones and there is no apparent undue risk from fire hazards. The drainage system has been designed to be consistent with relevant requirements of the City Engineer and will minimize risks associated with runoff and erosion by collecting and directing all onsite drainage back to the street and into the public City storm drain system.

The Project site is adjacent to the Coastal Bluff edge, approximately 35 feet above the beach below, so hazards from coastal flooding would be very remote. No construction will occur near the Coastal Bluff edge and all structure bearing support for the new development shall be at a minimum of 40 feet back from the bluff edge and implement a cantilevered design. No coastal protective devices exist on the site and none are proposed for the Project. A geotechnical analysis was performed and the bluff was considered to be stable to support the proposed development without a shoreline protection or other erosion control measure. No geologic hazards were found that would be detrimental to the proposed Project. The proposed development area is flat and surrounded by existing residential development. On site grading would occur for excavation of the building foundation and partially subterranean parking. However, no substantial change in topography or ground surface would result.

The City has concluded that based upon the various Geotechnical Reports submitted that there is sufficient data and analysis to verify the location of the bluff edge. Further, the Geologic Reports have adequately addressed the geologic hazards of the property by means of setbacks and deep foundations for the purpose of discretionary review. In the unlikely event that the existing bluff should experience exacerbated erosion and retreat beyond the anticipated 25 feet, the foundation system of the project has been designed to support the proposed duplex independent of the potential loss of the fill and terrace deposits. Conditions of the permit require that the structural foundation system be imbedded 5 feet into the Point Loma Formation. The standard of construction created by the attention to and extent of the engineered foundation works for the proposed Project will provide a manifold stability of structure far beyond that of the surrounding preexisting single and multi-family dwellings.

Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. A cantilevered design shall be used so that no construction will occur near the sensitive Coastal Bluff edge. A complete environmental review for the project area was completed. As outlined in the Mitigated Negative Declaration No. 86511, the project would require monitoring for sensitive historical and paleontological resources to mitigate potential impact to these resources. Best Management Practices (BMP) have been made a condition of the permit to ensure run-off and drainage does not impact the coastal bluff.

Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent Environmentally Sensitive Lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

The project is not located within or adjacent to the City's Multiple Habitat Planning Area. Therefore, the project does not need to show consistency with Multiple Species Conservation Program Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. In order to assess the geologic conditions of the site, a Geotechnical Investigation dated February 9, 2007 for 1466-1472 Pescadero Drive was prepared for the project and is summarized below. The project site is located within hazard category 43 which encompasses generally unstable Coastal Bluffs characterized by locally high erosion rates. The project would be conditioned to construct all of the foundation landward of the 40 foot Coastal Bluff edge setback. The Project is proposing to cantilever the structure over the 40 foot Coastal Bluff edge setback. The foundation would be properly embedded into the competent native materials. The foundation would not be subject to failure due to the anticipated coastal erosion forces. No work or grading is proposed on the bluff face. All project construction will occur eastward of the required 40 foot wide bluff edge setback. There is no seawall or other shoreline erosion control measure proposed as part of this project. As such, wave impact erosion and shoreline sand supply will remain the same. The proposed development will not contribute to erosion. No shoreline protection or shoreline

erosion control device is proposed. All onsite drainage will be collected and redirected away from the manufactured bluff and into the public street storm drain system.

Since the proposed project is a duplex located on the top of a man-made bluff, there will not be any impacts to the shoreline sand supply. A geological study of the Coastal Bluff, the site, and Coastal Bluff stability calculations and analysis were performed (see the Geologic Reports). The Geologic Reports conclude that the proposed project would not adversely impact the stability of the site or the Coastal Bluff, nor would the proposed project result in exacerbated Coastal Bluff retreat, failure or erosion. The geological and bluff stability studies and calculations conclude that the site is stable to support the development with the proposed 25 ft. bluff setback for new improvements and that the project has been designed so as not to subject to, nor contribute to, significant geologic instability. As such, the 25 ft. setback is appropriate for the Duplex with a 40 ft. setback for the proposed foundation system.

All drainage on the site will be collected in a private storm drain system and redirected back to the public right-of-way. A Geologic Reconnaissance was conducted and a report prepared for the site to identify and assess the geologic conditions at the site. The report found that the proposed project would not create a significant impact to the Coastal Bluff and no mitigation is required. The project site is adjacent to the bluff, approximately 35 feet above the beach below, so hazards from coastal or oceanic flooding would be very remote. The proposed development will *minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.*

Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply (also see CDP, SDP and PDP findings).

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. An environmental analysis was performed and Mitigated Negative Declaration No. 86511 was prepared with a Mitigation, Monitoring and Reporting Program, which would mitigate potentially significant archaeological and paleontological resource impacts to below a level of significance. The project would be conditioned to construct all of the foundation landward of the 40 ft. Coastal Bluff edge setback. The project is proposing to cantilever the structure over the 40ft. Coastal Bluff edge setback. The foundation would be properly embedded into the competent native materials. Proper engineering controls and best management practices consisting of Site Design, Source Control, Priority Project Category and Structural Treatment Control in accordance with the Land Development Code would minimize water runoff and soil erosion during excavation/construction activities. Additionally, the applicant is conditioned to

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submit a Water Pollution Control Plan (WPCP) prior to any work being done on the site. The resultant discharge from the site would then be substantially free of pollutants and sediments to the maximum extent practicable. Permit issuance would preclude a significant impact to Water Quality/Hydrology. All project construction will occur landward of the sensitive coastal bluff and coastal bluff edge setback.

Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development (also see CDP, SDP and PDP findings).

D. Planned Development Permit - Section 126.0604

1. The proposed development will not adversely affect the applicable land use plan.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The project meets the intent of the guidelines for the Coastal Overlay and Coastal Height Limitation Overlay zones. The proposed development would be consistent with the recommended residential density and multi family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 Zone and comply with the applicable development regulations of the Land Development Code including deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

The General Plan, Local Coastal Program and Zoning Ordinances have all designated this site for multi-family development. As designed, the proposed development meets all the recommendations of the General Plan, the Certified LCP – Land Use Plan, and the Precise Plan.

As referenced in the Coastal Development Findings above, the proposed project will not adversely affect the City's General Plan, the LCP, the Ocean Beach Precise Plan or any other applicable adopted plan or programs in effect for this site.

Therefore, the proposed development would not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The project requires a Site Development Permit based on the presence of Environmentally Sensitive Lands.

The project proposes the demolition of an existing two-story structure containing four dwelling units and the construction of a new, two-story over partially subterranean basement duplex with below grade level garages. The City of San Diego conducted a complete environmental review of this site. A Mitigated Negative Declaration No. 86511 has been prepared for this Project in accordance with CEQA Guidelines, which preclude impact to these resources and Mitigation Monitoring and Reporting Program (MMRP) would be implemented to reduce potential historical resources (archaeology) and paleontological impacts to a level below significance. Mitigation in the form of on-site monitoring for archaeology and paleontology was required as the project is located in an area with a high potential for subsurface resources. A geological report was prepared for the project and determined the project, as redesigned with a cantilevered floor to provide the required 40 foot setback from the bluff edge would not adversely affect the Coastal Bluff. Additionally, Best Management Practices (BMP) to ensure site drainage and run-off is directed away from the bluff. The Project site is not located within or adjacent to the Multi-Habitat Planning Area (MHPA) of the City's Multiple Species Conservation Program. The project site is located within an existing urbanized area. The proposed project was found to not have a significant effect on the environment. The project would be designed and constructed pursuant to all applicable zoning and building codes and inspected for compliance with building standards.

Therefore, the proposed development would not be detrimental to public health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The proposed project conforms to the certified Local Coastal Land Use Plan. No public view to the water would be adversely affected by the approval of this project. Granting the deviations via a Planned Development Permit would accommodate parking and access, including reduced parking stall dimensions, aisle width and visibility area and would not increase the potential scale or height of the overall structure. The project would not increase any public view impacts greater than a Project without the requested deviations. The proposed development is located between the shoreline and the first public roadway, therefore public views to the ocean must be preserved and where feasible enhanced. A visual corridor of not less than the side yard setbacks will be created and preserved to eliminate the impact of development along this coastal view area. The project complies with the guidelines for the Coastal Overlay and Coastal Height Limitation Overlay zones. The proposed development would be consistent with the recommended residential density and multi family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 Zone and comply with the applicable development regulations of the Land Development Code subject to deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

Therefore, the proposed development would comply with all applicable regulations of the Land Development Code.

4. The proposed development, when considered as a whole, will be beneficial to the community;

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The two existing duplexes are small square clap board structures that have not been well maintained. The westerly structure is nonconforming as it relates to the required 25 feet to 40 feet Coastal Bluff edge setback. The four units share one legal parking space and the remainder parking utilizes the adjacent alley which is not wide enough to legally park. The proposed development would provide an articulated contemporary structure with five (5) off-street parking spaces. The proposed development would be consistent with existing development in the area relative to the architectural style and the bulk and scale of the two- and three-story structures that are immediately adjacent to the proposed project. The project would visually enhance the surrounding area by removing the four existing nonconforming units and redeveloping the property in accordance with the current development regulations including parking, landscape, and setback requirements.

Therefore the proposed development, when considered as a whole, will be beneficial to the community.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable Project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The proposed development is located at 1466 Pescadero Drive within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 feet above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within 2 detached duplex structures that are nonconforming as to bluff edge setback and side yard views toward the ocean and the subsequent construction of two new attached multi-family residential units and associated off-street parking. Granting the deviations via a Planned Development Permit would accommodate parking and access, including reduced parking stall dimensions, aisle width and visibility area. Where as most properties within the community enjoy standard street frontage and rear alley access, the property at 1466 Pescadero Drive is located on what is essentially a named alley. Pescadero Drive is the same twenty-foot width as a standard alley and the deviations requested for the reduced parking stall dimensions and aisle width would permit the project to be parked below grade and also respect the required 25 feet to 40 feet Coastal Bluff edge setbacks. The deviation for a reduced visibility area is also needed due to the narrow street configuration. The 11 foot visibility triangle is

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considered sufficient and safe based on the narrow right-of-way and anticipated slower speeds of vehicular traffic.

Therefore, the proposed deviations would be appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

BE IT FURTHER RESOLVED that, the Planning Commission hereby certifies the Mitigated Negative Declaration 86511 and based on the testimony at the hearing and the various reports, studies and correspondence in the public record, the findings hereinbefore are hereby adopted by the Planning Commission and Coastal Development Permit No. 274486; Site Development Permit No. 277639 and Planned Development Permit No. 524160 are hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Coastal Development Permit No. 274486; Site Development Permit No. 277639 and Planned Development Permit No. 524160, copies of which is attached hereto and made a part hereof.

Patrick Hooper
Development Project Manager
Development Services

Adopted on: February 21, 2008
Job Order No. 42-5429

cc: Legislative Recorder, Planning Department

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ATTACHMENT 9
ATTACHMENT 1
Planning Commission Report
(with original attachments)



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5210

Community Planning Committee Distribution Form Part 2

Project Name : Pescadero House (Visin)		Project Number 86511	Distribution Date 09/07/06
Project Scope OCEAN BEACH JO#42-5429. (PROCESS 3) Coastal, Site Development to demo existing multi family dwelling units to construct 2 units in a two-story, 5,203 sf building (one 3BR, one 2BR) w/two attached at-grade 2-car garages and one open parking space (5 spaces total) on 7436sf site 1466 Pescadero Ave in the RM-2-4 Zone, Coastal Overlay (appealable), Sensitive Coastal, Coastal Ht Limit, First Public Rdwy, OB Hist Dstc, Parking Impact w/Ocean Beach Community Plan, Council District 2. Notice Cards=3.			
Project Location 1466 Pescadero Ave			
Related Projects			
Project Manager Cory Wilkinson	Phone Number 557-7900	Fax Number 446-5245	E-mail Address CWilkinson@sandiego.gov
Community Plan: Ocean Beach		Council District	
Existing Zone	Proposed Zone	Building Height	Number of Stories
FAR			
Committee Recommendations (To be completed for Initial Review):			
<input checked="" type="checkbox"/> Vote to Approve	Members Yes 9	Members No 0	Members Abstain 0
<input type="checkbox"/> Vote to Approve With Conditions Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain
<input type="checkbox"/> Vote to Deny	Members Yes	Members No	Members Abstain
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued
CONDITIONS:			
NAME LANORE WATSON		TITLE Chairman	
SIGNATURE 		DATE 05 May 07	
Attach Additional Pages If Necessary. Please Return Within 30 Days of Distribution of Project Plans To: Project Management Division City Of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101			

C01643

ATTACHMENT 10
ATTACHMENT 1
Planning Commission Report
(with original attachments)



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☒ Coastal Development Permit
☐ Neighborhood Development Permit ☒ Site Development Permit ☒ Planned Development Permit ☐ Conditional Use Permit
☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment ☐ Other _____

Project Title

Project No. For City Use Only

1466-72 Pescadero Ave

Project Address:

1466-72 Pescadero Ave San Diego CA 92120

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☐ No

Name of Individual (type or print):

Daniel R. Smith

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

6136 Mission Gorge Rd # 230

City/State/Zip:

Phone No:

619-283-5557

Fax No:

619-2830023

Signature :

Date:

1/31/2008

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

C01645



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

Development Environmental Determination Appeal Application

DS-3031

MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Planning Commission
☒ Process Four Decision - Appeal to City Council

- ☒ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☐ Applicant ☐ Officially recognized Planning Committee ☒ "Interested Person" (Per M.C. Sec. 113.0103)

Name

ROBERT AMES

Address

1459 PESCADERO DR. SAN DIEGO, CA 92107 (619) 226-3408

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

DANIEL SMITH, MARK VACHA, MICHAEL TAYLOR

4. Project Information

Permit/Environmental Determination & Permit/Document No.:

Date of Decision/Determination:

City Project Manager:

MND#86511, CDP #274486, SDP#277639

FEBRUARY 21, 2008

PATRICK HOOPER

Decision (describe the permit/approval decision):

PLANNING COMMISSION APPROVAL OF PROJECT #86511 (PESCADERO HOUSE)

INCLUDING CERTIFICATION OF MND AND APPROVAL OF A CDP, SDP AND PDP

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error (Process Three and Four decisions only) ☒ New Information (Process Three and Four decisions only)
☒ Conflict with other matters (Process Three and Four decisions only) ☒ City-wide Significance (Process Four decisions only)
☒ Findings Not Supported (Process Three and Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

SEE ATTACHMENT

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:

Robert Ames

Date:

4/3/08

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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 Upon request, this information is available in alternative formats for persons with disabilities.

DS-3031 (03-07)

RECEIVED
CITY OF SAN DIEGO
08 APR - 3 PM 2:26
SAN DIEGO, CALIF.

001646

ATTACHMENT

- 1) Environmental Review: The Mitigated Negative Declaration prepared for the project is insufficient, as there is substantial evidence the project will have a number of significant negative impacts on the environment, mandating preparation of an Environmental Impact Report pursuant to the California Environmental Quality Act.
- 2) Factual Error: Statements and evidence relied upon by the Planning Commission when approving the project were inaccurate, including but not limited to the rate of bluff retreat at the site, the presence of a seawall at the site that precludes reduction of the required bluff setback and purpose of the Sensitive coastal Bluff regulations.
- 3) New Information: We have uncovered new information that documents the high rate of retreat of the coastal bluff at the site.
- 4) Findings Not Supported: The required findings for the CDP, SDP, and PDP are not supported by the evidence in the record.
- 5) Conflicts: The project conflicts with a number of policies, objectives and requirements of the Ocean Beach Community Plan, Local Coastal Plan, Land Development Code and Municipal Code.
- 6) Citywide Significance: The improper implementation of the sensitive bluff guidelines for this project are of Citywide Significance.

SHIRLEY R. EDWARDS
CHIEF DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO
MICHAEL J. AGUIRRE
CITY ATTORNEY

SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

001647

March 21, 2008

Matthew Peterson, Esq.
Peterson & Price APC
655 W Broadway #1600
San Diego, CA 92101-3301

Dear Mr. Peterson:

*In Relation to the Appeal of Planning Commission Decision, Pescadero House –
Project No. 86511 – Missing Signature*

You have requested a letter confirming the City's determination to proceed with the processing of the appeal application challenging an earlier administrative decision to approve the Pescadero House project.

As background, the appellant, Robert Ames, filed the Pescadero House appeal application in person and paid the fees in full on March 4, 2008 in the Office of the City Clerk; however, the appeal form, although reviewed by City Clerk staff and deemed sufficient and complete for processing at that time, was not signed or dated. The appeal application was date stamped by the City Clerk's office upon receipt. Subsequent to this filing and within the appeal period, the appellant forwarded a copy of the application with all back up material to the City Clerk's office and specifically asked whether he was set. He was told that he was. It appears that a clerical error occurred in accepting the application on March 4th without requesting a signature and date.

The appeal of the Pescadero House project is an administrative appeal. The processing of this appeal will allow the City Council to determine in administrative hearing whether to uphold the prior administrative decision. In recognizing that the error was clerical in nature, the City has decided to proceed with the processing of this appeal application.

Based upon the authorities cited herein, an appeal is not invalid where the appeal was accepted for filing by the Clerk's Office within the allowable time period for filing an appeal. The omission of an original signature is a curable defect of form rather than a jurisdictional or substantive defect. In this instance, the appellant can cure the defect by filing an amendment to the appeal that is properly signed and dated. *See, United Farm Workers of America v.*

08 RECEIVED
CITY CLERK'S OFFICE
08 MAR 24 PM 2:26
SAN DIEGO, CALIF.

001649

Irvin, Linda

From: Irvin, Linda
Sent: Wednesday, March 12, 2008 8:27 AM
To: Matthew A. Peterson; Maland, Elizabeth; Clerk, City; Aguirre, Michael; Aguirre, Michael; Mike Aguirre
Cc: Daniel Smith; Hooper, Patrick
Subject: RE: Urgent notice Pescadero House Appeal

I am in receipt of your email and am checking on your request.

Thank you,
Linda

From: Matthew A. Peterson [mailto:MAP@petersonprice.com]
Sent: Tuesday, March 11, 2008 5:16 PM
To: Irvin, Linda; Maland, Elizabeth; Clerk, City; Aguirre, Michael; Aguirre, Michael; Mike Aguirre
Cc: Daniel Smith; Hooper, Patrick
Subject: Urgent notice Pescadero House Appeal
Importance: High

Hi Linda & Mike, I represent the owner of the property, Dan Smith. I assert that because the appeal was not signed, and not dated as required by the Municipal Code within the prescribed appeal period (which ended March 6th at 5:00pm), that it is a defective and invalid appeal. Please do not let him alter, or sign the incomplete appeal that was filed . That document may have to be utilized as evidence (if needed) in a legal challenge to the validity of the appeal. Please confirm receipt of this email. Thank you, Matt

Matthew A. Peterson
Peterson & Price, A Professional Corporation
655 West Broadway, Suite 1600
San Diego, CA 92101-3301
(619) 234-0361
(619) 234-4786 fax

NOTICE OF CONFIDENTIALITY: This Electronic transmission contains CONFIDENTIAL AND PRIVILEGED INFORMATION from Peterson & Price. If you receive this message or any of its attachments in error, please return this transmission to the sender immediately and delete this message from your mailbox. Thank you.

From: Irvin, Linda [mailto:LIrvin@sandiego.gov]
Sent: Tuesday, March 11, 2008 4:27 PM
To: Matthew A. Peterson
Subject: Pescadero House Appeal

The Pescadero House appeal I received on March 4, 2008, was paid for in cash; however, was not signed or dated on the appeal form (It was time stamped upon receipt). Robert Ames will be coming in to our office tomorrow, March 12, 2008, to sign this appeal form.

3/12/2008

Please let me know if you would like to be informed after he signs the appeal form.

Thank you,
Linda Irvin
Office of the City Clerk
Land Use Hearings
Lirvin@sandiego.gov
(619) 533-4012

001650

Irvin, Linda

From: Irvin, Linda
Sent: Tuesday, March 11, 2008 4:27 PM
To: 'MAP@petersonprice.com'
Subject: Pescadero House Appeal

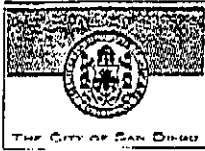
The Pescadero House appeal I received on March 4, 2008, was paid for in cash; however, was not signed or dated on the appeal form (It was time stamped upon receipt). Robert Ames will be coming in to our office tomorrow, March 12, 2008, to sign this appeal form.

Please let me know if you would like to be informed after he signs the appeal form.

Thank you,
Linda Irvin
Office of the City Clerk
Land Use Hearings
LIrvin@sanidiego.gov
(619) 533-4012

C01651

C01653



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

RECEIVED

RECEIVED

CITY CLERK'S OFFICE

Development

HAR 4 11 07

Environmental Determination

SAN DIEGO, CALIF.

SAN DIEGO, CALIF.

DS-3031

MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Planning Commission
☒ Process Four Decision - Appeal to City Council
☒ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☐ Applicant ☐ Officially recognized Planning Committee ☒ "Interested Person" (Per M.C. Sec. 113.0103)

Name

Robert Ames

Address

1459 Pescadero Drive

City

San Diego

State

CA

Zip Code

92107

Telephone

619-226-3408

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Daniel Smith, Mark Vacha and Michael Taylor

4. Project Information

Permit/Environmental Determination & Permit/Document No.:

MND#86511, CDP#274486, SDP#277639, PDP#524160

Date of Decision/Determination:

February 21, 2008

City Project Manager:

Patrick Hooper

Decision (describe the permit/approval decision):

Planning Commission approval of Project/86511 (Pescadero House), including certification of MND and approval of a CDP, SDP and PDP.

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error (Process Three and Four decisions only)
☒ Conflict with other matters (Process Three and Four decisions only)
☒ Findings Not Supported (Process Three and Four decisions only)
☒ New Information (Process Three and Four decisions only)
☒ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

1) Environmental Review: The Mitigated Negative Declaration prepared for the project is insufficient, as there is substantial evidence project will have a number of significant negative impacts on the environment, mandating preparation of an Environmental Impact

Report pursuant to the California Environmental Quality Act.

2) Factual Error: Statements and evidence relied upon by the Planning Commission when approving the project were inaccurate, including but not limited to the rate of bluff retreat at the site, the prior existence of a seawall at the site that precludes reduction of the required bluff setback and purpose of the Sensitive Coastal Bluff regulations.

3) New Information: We have uncovered new information that documents the high rate of retreat of the coastal bluff at the site.

4) Findings Not Supported: The required findings for the CDP, SDP and PDP are not supported by the evidence in the record

5) Conflicts: The project conflicts with a number of policies, objectives and requirements of the Ocean Beach Community Plan, Local Coastal Plan, Land Development Code and Municipal Code

6) Citywide Significance: The improper implementation of the sensitive bluff guidelines for this project are of Citywide significance.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: _____

Date: _____

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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DS 3031 (03-07)

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08 MAR - 4 PM 3:56
SAN DIEGO, CALIF.

Item 8

001655

SAN DIEGO PLANNING COMMISSION

DOCKET FOR PLANNING COMMISSION MEETING

9:00 A.M., FEBRUARY 21, 2008

CITY ADMINISTRATION BUILDING

COUNCIL CHAMBERS

202 C STREET, 12TH FLOOR

NOTE:

If a Sign Language Interpreter, aids for the visually impaired, or Alternative Listening Devices (ALD's) are required, please contact the Planning Department at (619) 321-3208 at least five (5) working days prior to the meeting to insure availability.

Those items with an asterisk () will include consideration of the appropriate environmental document.*

To listen to the "live" broadcast of a Planning Commission meeting, dial 619-533-4001. Note: Rancho Bernardo and Rancho Penasquitos residents dial 619-484-7711 and ask the Citizen's Assistance operator to connect you.

Members of the Public should realize and understand that Planning Commissioners may be unable to thoroughly review and consider materials delivered the day of the hearing.

When it is determined that the Planning Commission will adjourn for lunch; the Planning Commission will adjourn @ 12:30 and reconvene @ 1:30, to Conference Room A, located on the 12th floor, next to the Council Chambers.

ITEM-1: **ANNOUNCEMENTS/PUBLIC COMMENT - ISSUES WITHIN THE JURISDICTION OF THE COMMISSION NOT PREVIOUSLY HEARD. REQUEST TO SPEAK SHOULD BE SUBMITTED TO THE COMMISSION SECRETARY AT THE TIME OF THE MEETING.**
NOTE: 3 MINUTE TIME PER SPEAKER.

ITEM-2: **REQUESTS FOR ITEMS TO BE CONTINUED AND/OR WITHDRAWN.**

ITEM-3: **REQUESTS FOR ITEMS TO BE PLACED ON CONSENT AGENDA.**
The Chair may entertain a motion by a Commissioner to approve certain non-controversial agenda items as consent agenda items at the beginning of the meeting. Items approved on consent are in accordance with the Manager's recommendation as stated in the Report to Planning Commission.

ITEM-4: **DIRECTOR'S REPORT.**

ITEM-5: **COMMISSION COMMENT.**

ITEM - 6: **APPROVAL OF THE MINUTES FEBRUARY 7, 2008.**

001656

ITEM-7: *Appeal of Hearing Officer Decision from December 19, 2007:*

5130 SARATOGA MAP WAIVER- PROJECT NO. 138048
City Council District: 2 Plan Area: Ocean Beach

Staff: Laila Iskandar

Map Waiver application to waive the requirements of a Tentative Map to create two (2) residential condominiums (currently under construction), and to waive the requirement to underground existing overhead utilities, on a 0.10-acre site. The property is located at **5130-5132 Saratoga Avenue** in the RM-2-4 Zone, State Coastal Overlay Zone, Coastal Height Limitation Overlay Zone, Airport Approach, Airport Environs, Airport Influence Overlay Zone, Parking Impact and Residential Tandem Parking Overlay Zones within the Ocean Beach Precise Plan and Local Coastal Program Area and Council District 2. Exempt from environmental. Report No. PC-08-019

TODAY'S ACTION IS:
Process 3 Approve or deny

DEPARTMENT RECOMMENDATION:
Deny the appeal

ITEM-8: *Continued from January 17, 2008:*

*** PESCADERO HOUSE- PROJECT NO. 86511**
City Council District: 2; Plan Area: Ocean Beach

Staff: Patrick Hooper

Coastal Development Permit/Site Development Permit/Planned Development Permit to demolish four existing multi-family dwelling units and construct two new units in a 5,203 square-foot two-story structure on 7436 square-foot site located at **1466 Pescadero Drive** between Bermuda Avenue and Pescadero Avenue in the RM-2-4 Zone. Mitigated Negative Declaration No. 86511. Report No. PC-08-015

TODAY'S ACTION IS:
Process 4. Approve or deny

DEPARTMENT RECOMMENDATION:
Approve

Irvin, Linda

From: Irvin, Linda
Sent: 001657 Tuesday, March 04, 2008 4:45 PM
To: Hooper, Patrick
Cc: Vetter, Gary; Planning Commission; Dixon, Andrea; Sokolowski, Michelle; Plank, Ed; Rath, Phil
Subject: Appeal Received March 4, 2008 - Pescadero House, Project No. 86511

An appeal of the decision by the Planning Commission for Pescadero House, Project No. 86511, Item No. 8 at Planning Commission on February 21, 2008, has been received in the City Clerk's Office, on March 4, 2008.

A copy of the appeal will be forwarded to you, at MS 501, Planning Commission MS 4, Michelle Sokolowski MS 501 Andrea Dixon MS 59, Ed Plank MS 11A and Phil Rath MS 11A . The original will be kept in the City Clerk's Office.

You may contact Gary Vetter, Hearings Section Supervisor, via email or at 533-4013 if you have any questions regarding docketing this appeal.

Thank you,

Linda Irvin
Office of the City Clerk
Land Use Hearings
Lirvin@sandiego.gov
(619) 533-4012

001659

NOTICE OF DETERMINATION

TO: ☒ Recorder/County Clerk
P.O. Box 1750, MS A33
1600 Pacific Hwy, Room 260
San Diego, CA 92101-2422

FROM: City of San Diego
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101

Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

Project Number: 86511

State Clearinghouse Number: N/A

Permit Number: Coastal Development Permit No. 274486; and Site Development Permit No. 277639; and
Planned Development Permit No. 524160.

Project Title/Applicant: **Pescadero House / Michael Taylor 9255 Towne Center Drive, Suite 700 (858) 452- 8300.**

Project Location: 1466 Pescadero Drive , San Diego CA

Project Description:

Pescadero House: PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP) and a COASTAL DEVELOPMENT PERMIT (CDP) to allow the demolition of two single-family homes and the construction of a two-unit, split-level multi-family development with underground parking. The site is located at 1466 Pescadero Drive within the Ocean Beach Planning Area, Sensitive Coastal Overlay Zone, Ocean Beach Emerging Historic District, Parking Impact Overlay Zone and Council District 2. Legal Description: Lot 7 and 8 in Block 44-Map of Ocean Beach being a subdivision of Pueblo Lots 195, 202 and 203 and that portion of Ocean Boulevard closed and vacated by resolution ordering work no. 103046, document 435927 on July 17, 1951.

This is to advise that the City of San Diego Planning Commission on February 21, 2008 approved the above described project and made the following determinations:

1. The project in its approved form ☐ will, ☒ will not, have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project and certified pursuant to the provisions of CEQA.
☒ A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
☐ An addendum to was prepared for this project pursuant to the provisions of CEQA.
Record of project approval may be examined at the address above.
3. Mitigation measures ☒ were, ☐ were not, made a condition of the approval of the project.
4. (EIR only) Findings ☐ were, ☒ were not, made pursuant to CEQA Guidelines Section 15091.
5. (EIR only) A Statement of Overriding Considerations ☐ was, ☒ was not, adopted for this project.

It is hereby certified that the final environmental report, including comments and responses, is available to the general public at the office of the Land Development Review Division, Fifth Floor, City Operations Building, 1222 First Avenue, San Diego, CA 92101.

Analyst: Marc Cass

Telephone: (619) 446-5330

Filed by:

Allison Sherwood
Signature
SENIOR PLANNER
Title

C01661

Item 8

**PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
FEBRUARY 21, 2008
IN CITY COUNCIL CHAMBERS - 12TH FLOOR
CITY ADMINISTRATION BUILDING**

CHRONOLOGY OF THE MEETING:

Chairperson Schultz called the meeting to order at 9:06 a.m. Commissioner Ontai adjourned the meeting at 12:39 PM.

ATTENDANCE DURING THE MEETING:

Chairperson Barry Schultz - present
Vice-Chairperson - Vacant
Commissioner Robert Griswold – present
Commissioner Gil Ontai -present
Commissioner Dennis Otsuji - present
Commissioner Eric Naslund - present
Commissioner Mike Smiley – present

Staff

Andrea Dixon, City Attorney - present
Mary Wright, CP & CI – present
Mike Westlake, Development Services Department - present
Elisa Contreras, Recorder – present
Donna Trask, Recorder-present

PLANNING COMMISSION MINUTES FOR FEBRUARY 21, 2008

COMMISSION ACTION:

MOTION BY COMMISSIONER SMILEY TO DENY THE APPEAL AND UPHOLD THE HEARING OFFICER'S DECISION TO APPROVE MAP WAIVER NO. 480583 INCLUDING A WAIVER OF THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITIES. Second by Commissioner Ontai. Passed by a 4-2-1 vote with Chairperson Schultz and Commissioner Griswold voting nay and one vacancy. Resolution No. 4375-PC

Break 10:06-10:16

ITEM -8: *Continued from January 17, 2008*

***PESCADERO HOUSE-PROJECT NO. 86511**

City Council District: 2; Plan Area: Ocean Beach

Staff: Patrick Hooper

Speaker slips in favor by Daniel Smith, Mark Vacha, Matt Peterson, Michael Taylor, Curtis Burdett, Jennifer Rogers, David Smith, Philip D. Taylor, Charles Banks, Gene Shepherd, Jason Luker, Min Leonard, and Diane Taylor.

Speaker slips submitted in opposition by Jeff Russell, Josh Whalen, Lori Frangkiser, Rob Aimes, and Andrea Lawrence Stewart.

COMMISSION ACTION:

MOTION BY COMMISSIONER GRISWOLD TO CERTIFY MITIGATED NEGATIVE DECLARATION NO. 86511, AND ADOPT THE MITIGATION, MONITORING AND REPORTING PROGRAM.

APPROVE COASTAL DEVELOPMENT PERMIT NO. 274486.

APPROVE SITE DEVELOPMENT PERMIT NO. 277639.

APPROVE PLANNED DEVELOPMENT PERMIT. NO 524130.

Second by Commissioner Smiley. Passed by a 5-1-1 vote with Chairperson Schultz voting nay and one vacancy. Resolution No. 4376-PC

344
5/27

PETERSON & PRICE
A PROFESSIONAL CORPORATION

LAWYERS

655 West Broadway, Suite 1600
San Diego, CA 92101-8494
Telephone (619) 234-0361
Fax (619) 234-4786

OF COUNSEL
PAUL A. PETERSON

EDWARD F. WHITTIER
MARSHAL A. SCARR
MATTHEW A. PETERSON
LARRY N. MURNANE
CHRISTOPHER J. CONNOLLY
ELOISE H. FEINSTEIN
MIRANDA M. BORDSON
AMY M. STRIDER
CHRISTOPHER R. MORDY

www.petersonprice.com

File No.
7357.001
Via Messenger

May 20, 2008

President Scott Peters and
Members of City Council
City of San Diego
202 C Street, 5th Floor
San Diego, CA 92101

Re: Tuesday May 27th, 2008,
Pescadero Duplex Project No. 86511
Robert Ames Appeal

Dear President Peters and Members of the City Council:

We represent Dan Smith and Michael Taylor, with regard to the above referenced matter.

As you can see within attached Tab 1, we objected to and challenged the Appeal on the basis that it was not valid. The Appeal was not signed or dated and it did not contain any factually based evidence supporting the various allegations in the Appeal. The City Attorney opined that the Appeal was adequate. As such, we are proceeding with this process "under protest" reserving all of our client's rights in that regard.

The invalid Appeal contains 6 issues which will be briefly touched upon as follows;

1. **Opponent's assertion:** A full Environmental Impact Report is required.

Applicant's Response: There is no evidence in the record to indicate that the Mitigated Negative Declaration is inadequate or that it does not fulfill the requirements of CEQA. There are no significant unmitigated impacts associated with the project and any impacts that were identified have been mitigated to level less than significant. No EIR is required.

2. **Opponent's assertion:** The rate of bluff retreat and prior existence of a Seawall precludes a reduction in the required bluff setback.

Applicant's Response: The erosion rate, bluff stability, bluff edge setback and factor of safety analysis was conducted and completed by licensed professionals. The City of San Diego Geologist and your Engineering Department has reviewed those reports and studies. The City Staff agrees with the conclusions stated therein. The Project as designed has a greater than required bluff edge setback, with all structural footings and foundations put back at the 40 foot with a cantilever of the habitable space to the 25 foot setback (see Tab 2, Site Plan and Tab 3, Cross section). This is consistent with the requirements as contained within the Municipal Code and Certified

Local Coastal Program. There was no prior existence of a Seawall on the site and as such, the opponents' argument in this regard is invalid.

3. **Opponent's assertion:** There is new information concerning a "high rate of retreat of the coastal bluff".

Applicant's Response: No such new information exists. All studies, reports and conclusions concerning the bluff retreat rate, factor safety analysis and stability of the coastal bluff were contained within the various reports which were reviewed and approved by the City Geologist.

4. **Opponent's assertion:** The findings were not supported.

Applicant's Response: *The Appeal contains no evidence and no discussion as to why the findings adopted by the Planning Commission are not supported by the evidence in the record.*

5. **Opponent's assertion:** There is a conflict with policies, objectives and requirements of the Community Plan, Local Coastal Program, Land Development Code and Municipal Code.

Applicant's Response: There is no evidence in the record, or within the Appeal which would specify what conflict, if any, exists.

6. **Opponent's assertion:** There was improper implementation of the Sensitive Bluff Guidelines and this produces an issue of City wide significance.

Applicant's Response: Opponents do not present any factual based evidence, which would indicate improper implementation of the guidelines.

There is no explanation of this allegation in the Appeal.

Discussion of Issues

There are currently four older and somewhat dilapidated units on the property. The proposal is to remove those four units (which are nonconforming) and replace them with two new condominium units with five (5) parking spaces.

The project complies with all the applicable regulations within the Ocean Beach Precise Plan and the San Diego Municipal Code with the exception of the following minor deviations:

1. The visibility area.
2. Minimum driveway aisle width.
3. Minimum parking dimensions.

As you can see by the Staff Report, the Development Services Department recommends approval of the project with these minor deviations. To the best of our

knowledge, the opponents have not challenged these minor deviations. The Ocean Beach Planning Group, by a vote of 10-0, after reviewing the project numerous times, recommended approval finding that the project was consistent with the Precise Plan.

The Opposition

A person who was and perhaps still is dating a previous tenant of the existing 4-plex, Jeffrey A. Russell, Esq. has filed written challenges concerning the Mitigated Negative Declaration ("MND"). He lives in San Francisco, CA. You will note by reviewing the top of the Appeal, it was drafted by Mr. Russell and faxed down from San Francisco to Mr. Ames. The MND did respond to each and every one of Mr. Russell's assertions (see MND Response to Comments). The Opponent's assert that the project will somehow negatively affect the aesthetic character of the neighborhood. Again, the MND in responses 7, 8, and 9 addresses these issues. The project complies with all the applicable floor area ratio, setback and height restrictions, and the project has been designed to match the character and scale of the surrounding neighborhood. Our clients proposed Duplex is literally dwarfed by the 2 adjacent structures to the North and to the South. As you can see within Tab 4 (Artist Rendering), the project will fit into, and be within the scale and character of the surrounding two- and three-story multi-family developments. This project will be set back from the coastal bluff edge much further than the two adjacent projects. The Existing 4-plex structure is only 16 ft from the bluff edge. The structural elements of the new Duplex will be set back 40 ft

from the bluff edge with a cantilever of some of the habitable space out of the 25 ft setback.

The neighbor has also asserted that the project would result in an impact to a historic structure. The MND addressed this issue and your Staff has concluded that there is no indication that the existing units possess significant historical, architectural, or other features which should be addressed.

The opponent's also believe that the entire structure should be set back 40 ft. from the coastal bluff edge (with no allowed cantilever) because of their belief that the site is unstable and because of their speculation that there will be future shoreline protection which may be placed by other owners (or the City) next to or in front of the property. To the best of our knowledge, the opponent's have not hired or retained a geologist or a coastal engineer. Therefore, all of their allegations are based upon invalid personal opinions and beliefs. There is no shoreline protection device on the premises and our client is not requesting any shoreline erosion devices. As such, the 40 ft. setback is not mandated. However, as an accommodation, our client voluntarily agreed to place all the structural footings and foundation system at the 40 ft. setback line. The rest of the structure is then cantilevered to the 25 ft. setback line. There is no load bearing or other impact on the coastal bluffs (see Tab 3) as a result of project implementation.

You will note by reviewing the Geologic Reports prepared by Christian Wheeler Engineering as well as the expert Opinion from Dr. Richard Seymour, the 40 ft. setback is not required or mandated based upon geologic instability, the 1.5 factor of safety determination, or the 75-year anticipated coastal bluff recession. The Geologic Reports recommend a 25 ft. to 26 ft. setback from the edge of the coastal bluff. It was at Staff's suggestion that the structural elements be designed at the 40 ft. setback (even though a 25 ft. to 26 ft. setback is supported by the various studies and reports).

Based upon the Planning Commission Approval, the Staff's recommendation of approval, and the unanimous recommendation of approval from the Ocean Beach Planning Group, we would respectfully request that the City Council deny the Appeal and uphold the decision of the Planning Commission.

Thank you for your courtesy.

Sincerely,

PETERSON & PRICE
A Professional Corporation

A handwritten signature in black ink, appearing to read "Matt Peterson", written over a horizontal line.

Matthew A. Peterson

Enclosures

cc: Mayor Jerry Sanders
City Attorney Michael Aguirre
City Clerk Elizabeth Maland
Patrick Hooper, Project Manager, Development Services Dept.
Daniel Smith
Michael Taylor

Matthew A. Peterson

From: Matthew A. Peterson
Sent: Tuesday, March 11, 2008 5:16 PM
To: 'Irvin, Linda'; Elizabeth Maland (emaland@sandiego.gov); Elizabeth Maland (cityclerk@sandiego.gov); Michael Aguirre (michaelaguirre@sandiego.gov); MAguirre@sandiego.gov; Mike Aguirre
Cc: Daniel Smith; Patrick Hooper (phooper@sandiego.gov)
Subject: Urgent notice Pescadero House Appeal
Importance: High

Hi Linda & Mike, I represent the owner of the property, Dan Smith. I assert that because the appeal was not signed, and not dated as required by the Municipal Code within the prescribed appeal period (which ended March 6th at 5:00pm), that it is a defective and invalid appeal. Please do not let him alter, or sign the incomplete appeal that was filed . That document may have to be utilized as evidence (if needed) in a legal challenge to the validity of the appeal. Please confirm receipt of this email. Thank you, Matt

Matthew A. Peterson
Peterson & Price, A Professional Corporation
655 West Broadway, Suite 1600
San Diego, CA 92101-3301
(619) 234-0361
(619) 234-4786 fax

NOTICE OF CONFIDENTIALITY: This Electronic transmission contains CONFIDENTIAL AND PRIVILEGED INFORMATION from Peterson & Price. If you receive this message or any of its attachments in error, please return this transmission to the sender immediately and delete this message from your mailbox. Thank you.

From: Irvin, Linda [mailto:LIrvin@sandiego.gov]
Sent: Tuesday, March 11, 2008 4:27 PM
To: Matthew A. Peterson
Subject: Pescadero House Appeal

The Pescadero House appeal I received on March 4, 2008, was paid for in cash; however, was not signed or dated on the appeal form (It was time stamped upon receipt). Robert Ames will be coming in to our office tomorrow, March 12, 2008, to sign this appeal form.

Please let me know if you would like to be informed after he signs the appeal form.

Thank you,
Linda Irvin
Office of the City Clerk
Land Use Hearings
LIrvin@sandiego.gov
(619) 533-4012



CALIFORNIA
OFFICIAL RECEIPT

DEPARTMENT/DIVISION NAME

City Clerk/Boat License Service 3-4-08

DATE

AMOUNT:

one hundred 00/100 DOLLARS CENTS \$ 100.-

RECEIVED FROM:

Robert Ames

ADDRESS:

1757 Pescadero Dr
San Diego CA 92107

IN PAYMENT OF:

Boat License House Reg No 82511 CAP 274466 DP 277657



CHECK



CASH

RECEIVED BY:

[Signature]

FOR ABOVE NAMED DEPARTMENT

FUND	DEPARTMENT	ORGANIZATION	ACCOUNT	JOB ORDER	FACILITY	AMOUNT	DISTRIBUTION:
41600			77PC				WHITE - CUSTOMER PINK - TREASURER YELLOW - RETAIN GREEN - AUDITOR



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

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CITY CLERK'S OFFICE

Development Permit/ Environmental Determination Appeal Application

FORM

DS-3031

MARCH 2007

SAN DIEGO, CALIF.

SAN DIEGO, CALIF.

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Planning Commission
☒ Process Four Decision - Appeal to City Council
☐ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☐ Applicant ☐ Officially recognized Planning Committee ☒ "Interested Person" (Per M.C. Sec. 113.0103)

Name

Robert Ames

Address

1459 Pescadero Drive

City

San Diego

State

CA

Zip Code

92107

Telephone

619-228-3408

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Daniel Smith, Mark Vacha and Michael Taylor

4. Project Information

Permit/Environmental Determination & Permit/Document No.:

MND#86511, CDP#274486, SDP#277639, PDP#524160

Date of Decision/Determination:

February 21, 2008

City Project Manager:

Patrick Hooper

Decision (describe the permit/approval decision):

Planning Commission approval of Project/86511 (Pescadero House), including certification of MND and approval of a CDP, SDP

and PDP.

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error (Process Three and Four decisions only)
☒ Conflict with other matters (Process Three and Four decisions only)
☒ Findings Not Supported (Process Three and Four decisions only)
☐ New Information (Process Three and Four decisions only)
☐ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5, of the San Diego Municipal Code. Attach additional sheets if necessary.)

1) Environmental Review: The Mitigated Negative Declaration prepared for the project is insufficient, as there is substantial evidence project will have a number of significant negative impacts on the environment, mandating preparation of an Environmental Impact

Report pursuant to the California Environmental Quality Act.

2) Factual Error: Statements and evidence relied upon by the Planning Commission when approving the project were inaccurate, including but not limited to the rate of bluff retreat at the site, the prior existence of a seawall at the site that precludes reduction of the required bluff setback and purpose of the Sensitive Coastal Bluff regulations.

3) New Information: We have uncovered new information that documents the high rate of retreat of the coastal bluff at the site.

4) Findings Not Supported: The required findings for the CDP, SDP and PDP are not supported by the evidence in the record.

5) Conflicts: The project conflicts with a number of policies, objectives and requirements of the Ocean Beach Community Plan, Local Coastal Plan, Land Development Code and Municipal Code.

6) Citywide Significance: The improper implementation of the sensitive bluff guidelines for this project are of Citywide significance.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: _____

Date: _____

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.

Upon request, this information is available in alternative formats for persons with disabilities.

DS 3031 (03-07)

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08 MAR - 14 PM 3:56
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